

Washington State Register

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CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: The 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 28B.19 or 34.04 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to noon and from 1 p.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of March 1988 pursuant to RCW 19.52.020 is twelve percent (12%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

The maximum allowable retail installment contract service charge applicable for calendar year 1988 pursuant to RCW 63.14.130(1)(a) is twelve and one-quarter percent (12 1/4%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is twelve percent (12%) for the second calendar quarter of 1988.

WASHINGTON STATE REGISTER

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and are set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** have been adopted on an emergency basis and are set forth in ten point oblique type.

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.04.058 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) deleted material is (~~lined out and bracketed between double parentheses~~);
- (b) Complete new sections are prefaced by the heading **NEW SECTION**;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading **REPEALER**.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed, but not advanced, and a delayed effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in brackets [].

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1987 – 1988

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

<u>Issue No.</u>	<u>Closing Dates¹</u>			<u>Distribution Date</u>	<u>First Agency Action Date³</u>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing/adoption on or after</i>
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¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the order typing service (OTS) of the code reviser's office; see WAC 1-12-220 or 1-13-240. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

³"No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 88-05-057**ADOPTED RULES****BOARD OF HEALTH**

[Order 307—Filed February 17, 1988]

Be it resolved by the Washington State Board of Health, acting at Lacey, Washington, St. Placid Priory, 320 College Street S.E., that it does adopt the annexed rules relating to public water supplies, chapter 248-54 WAC.

This action is taken pursuant to Notice No. WSR 87-24-037 filed with the code reviser on November 25, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 34.04.045 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 10, 1988.

By John A. Beare, MD, MPH
Secretary

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-005 PURPOSE AND SCOPE. (1) The purpose of these ((state board of health regulations)) rules ((address)) is to protect the health ((aspects)) of consumers using public drinking water ((supply in a manner designed to encourage sound design, construction, management, and operations practice)) supplies and to provide basic regulatory requirements for:

(a) Design, construction, sampling, management, and operation practices; and

(b) Provision of high quality drinking water in a reliable manner and in a quantity suitable for intended use.

((The regulations set forth are adopted pursuant to the provision of chapter 43.20 RCW.))

(2) These ((regulations)) rules are intended to conform with the intent of P.L. 93-523, the Federal Safe Drinking Water Act of 1974, ((to assure the supply of safe, high quality drinking water in a reliable manner and in a quantity suitable for intended use)) and the Safe Drinking Water Act Amendments of 1986, Public Law 99-339.

(3) The rules set forth are adopted per chapter 43.20 RCW. Other statutes relating to this chapter are:

(a) Chapter((s)) 43.20A RCW, department of social and health services;

(b) Chapter 70.05 RCW, local health department, boards, officers—regulations;

(c) Chapter 70.116 RCW, Public Water System Coordination Act of 1977;

(d) Chapter 70.119 RCW, public water supply systems—certification and regulation of operators; and

(e) Chapter 70.119A RCW, public water supply systems—penalties and compliance.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)**WAC 248-54-015 DEFINITIONS.** (1)**Abbreviations:**

kPa – kilo pascal (((metric equivalent of psi))) SI units of pressure,

m – meter,

MCL – maximum contaminant level,

mL – milliliter,

mm – millimeter,

mg/L – milligrams per liter,

MID – maximum instantaneous demand,

MPN – most probable number of coliform bacteria per 100 mL,

pCi/L – picocuries per liter,

psi – pounds per square inch,

ug/L – micrograms per liter,

umhos/cm – micromhos per centimeter,

(2) Classes of public water systems:

(a) "Class 1" – A public water system having ((one hundred)) 100 or more permanent services ((or serving a transitory population of one thousand or more people on any one day. When the class designation is based on transitory population, the suffix "T" will follow the 1, i.e., 1T designating a class 1 transitory system)).

(b) "Class 2" – A public water system having ((ten)) 10 through ((ninety-nine)) 99 permanent services ((or serving a transitory population of three hundred through nine hundred ninety-nine people on any one day. When the class designation is based on transitory population, the suffix "T" will follow the 2, i.e., 2T, designating a class 2 transitory system)).

(c) "Class 3" – A public water system serving a transitory population of ((twenty-five)) 25 ((through two hundred ninety-nine)) or more on any one day.

(d) "Class 4" – A public water system ((having two through nine permanent services or serving a transitory population of less than twenty-five people on any one day or any other public water system)) which is not a class 1, 2, or 3 system. ((When the class designation is based on transitory population, the suffix "T" will follow the 4, i.e., 4T, designating a class 4 transitory system.))

Note: If the public water system serves both permanent ((services)) and ((a)) transitory population, the ((system is classified according to the number of permanent services, and transitory population. The)) higher classification will be used (class 1 being the highest, class ((4T)) 4 the lowest).

(3) "Contaminant" – Any ((physical, chemical, biological, or radiological)) substance ((or matter when)) present in drinking water ((above an acceptable level)) which may adversely affect the health of the consumer and/or the aesthetic qualities of the water ((consumed)).

(4) "Cross-connection" – Any physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system,

capable of contaminating the public water system as a result of backflow.

(5) "Department" – The Washington state department of social and health services.

(6) "Disinfection" – ((Introduction)) The use of chlorine or other agent or process, approved by the department((, in sufficient concentration, followed by adequate contact time so as to kill)) for the purpose of killing or ((inactivate)) inactivating pathogenic and indicator organisms.

(7) "Distribution system" – ((Any pipe network conveying flow from system storage and/or transmission lines to the service connections)) That portion of a public water supply system which stores, transmits, pumps, and distributes water to consumers.

(8) ("Emergency plan" – A document outlining procedures necessary for timely response to emergency situations and conditions.)

((9)) "Fire flow" – The rate of water ((delivery)) flow needed ((for the purpose of fighting)) to fight fires ((in addition to requirements for normal domestic maximum instantaneous demand,)) as defined by applicable codes.

(9) "Guideline" – A department document intended to assist the purveyor in meeting a requirement of a rule.

(10) "Health officer" – The health officer of the city, county, ((or)) city-county health department or district, or an authorized representative.

(11) "Hydraulic analysis" – The study of the water system network: To evaluate ((the ability of the system to conduct)) water flows ((throughout)) within the distribution system under worst case conditions((, consisting of the)); such as, maximum hourly flow plus fire flow when required or maximum instantaneous demand (MID) when fire flow is not required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

(12) "Maximum contaminant level" – The maximum permissible level of a contaminant in water delivered to ((the free-flowing outlet of the ultimate)) any user of a public water system((, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition)) as measured at the locations identified in WAC 248-54-165, Table 4.

(13) ("Maximum daily turbidity" – The level determined by the average of the maximum hourly readings over a twenty-four hour period when continuous monitoring is used or the average of two grab samples taken within one hour when daily monitoring has been approved by the department.

((14)) "Maximum instantaneous demand" ((MID)) – The ((flow rate of water needed to supply all the consumers of a water system with water at the same moment in time,)) maximum rate of water use, excluding fire flow, experienced or expected within a defined service area at any instant in time.

((15)) "Operations program" – A document defining the necessary elements of management, maintenance, and quality control in an easily understood manner.

((16))) (14) "Permanent population" – That population ((normally resident to the)) served by a public water system for three ((continuous months)) or more consecutive months.

(15) "Permanent service" – A drinking water connection which serves a permanent population.

(16) "Primary contaminant" – Any contaminant present in drinking water which may adversely affect the consumer's health.

(17) "Primary ((inorganic chemical and physical)) standards" – Standards based on ((the)) chronic or acute human health effects ((of arsenic, barium, cadmium, chromium, fluoride, lead, mercury, nitrate (as N), selenium, silver, sodium, and turbidity)).

(18) "Protected ground water source" – A ground water source shown to the satisfaction of the department to be ((well=)) protected from any potential sources of contamination on the basis of ((geohydrologic)) hydrogeologic data and/or satisfactory water quality history.

(19) "Public water system" – Any ((system or)) water supply system intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission, and distribution facilities where water is furnished to any community((, collection,)) or ((number)) group of individuals, or is made available to the public for human consumption or domestic use, but excluding ((a)) all water supply systems serving one single family residence. It also does not include water systems meeting all of the following requirements:

(a) Purchase their entire supply of water from another public water system subject to these regulations,

(b) Do not treat the water (other than softening or corrosion control), and

(c) Do not sell water. Businesses or systems merely storing and distributing water provided by others are exempt unless that system sells water as a separate item or bills separately for the water provided.

Note: ((This definition excludes)) Bottled water operations ((falling)) fall under federal food and drug administration regulations((, except where the number of people served on site places the system into one of the water system class categories)).

(20) "Purveyor" – ((The federal)) Any agency((,)) or subdivision of the state ((agency, county agency, city, town,)) or any municipal corporation, firm, company, mutual((,)) or cooperative((,)) association, ((corporation, partnership, district,)) institution, partnership, or person or ((persons owning)) any other entity that owns or ((operating)) operates a public water system((, or the)). It also means the authorized agents of any such entities.

(21) "Secondary contaminant" – Any contaminant present in drinking water which ordinarily does not adversely affect the consumer's health. Secondary contaminants include, but are not limited to, those contaminants which adversely affect only the aesthetic qualities of water.

(22) "Secondary ((chemical and physical)) standards" – Standards based on ((the aesthetic)) factors other than

health effects ((of chloride, color, copper, iron, manganese, odor, sulfate, total dissolved solids, and zinc)).

((22)) (23) "Service" – A ((physical)) connection to a public water system designed to serve a single family residence, dwelling unit, or equivalent use. ((For example, a single family home or a dormitory room would each be one service.)) If the facility has group home or barracks-type accommodations allowing ((more than)) three or more persons to occupy the same room, ((the formula of)) three persons ((served equals)) will be considered equivalent to one service ((will be used)).

((23)) (24) "Standard methods" – The ((current)) most recently published edition of the book, titled Standard Methods for the Examination of Water and Waste Water, ((which is)) jointly published by the american public health association, american water works association (AWWA), and water pollution control federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

((24)) (25) "Transitory population" – ((People)) That population using a public water system ((for drinking water on a nonpermanent basis (i.e., campground, airport, motel, restaurant))) other than the permanent population, if any.

((25)) (26) "Well field" – A group of closely spaced wells((, approximately the same depth,)) obtaining water from the same aquifer.

((26) "Wholesale" – To sell water to another utility.))

(27) "Water facilities inventory form" (WFI) – The department form which summarizes each public water system's characteristics.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-025 GENERAL ADMINISTRATION. (1) The department and the health officer for each local health jurisdiction shall ((have)) develop a joint plan of operation listing the ((responsibilities)) roles of each agency for administering these ((regulations)) rules. ((The plan shall provide for a minimum necessary level of water system supervision.)) This plan shall ((be submitted to the local board of health for adoption));

(a) Specifically designate those systems for which the department and local health officer have primary responsibility,

(b) Provide for a minimum acceptable level of water system supervision.

(c) Be signed by the state health officer and the chairperson of the local board of health, and

(d) Be updated as needed and at least every five years.

Wherever in these rules the term "department" is used, the term "health officer" may be substituted based on the terms of this plan of operation.

(2) The department shall, upon request, review and report on the adequacy of water supply supervision to both the state and local boards of health. ((The plans shall be approved and updated as necessary.))

((Wherever in these regulations the term "department" is used, the term "health officer" may be substituted, according to the terms of this plan of operation.))

((2)) (3) The local board of health may adopt ((regulations establishing a program for regulation of the)) rules covering public water systems within ((the)) its jurisdiction for which the health officer has assumed primary responsibility. The adopted ((regulations)) rules shall be consistent with ((this section,)) chapter 248-54 WAC and local needs((,)) and resources.

((3)) (4) The health officer may waive any or all requirements of these ((regulations)) rules for class 4 systems with two connections where the health officer has assumed primary responsibility for these systems.

((4)) (5) For those public water systems where the health officer has assumed primary responsibility, the health officer may approve ((preliminary)) project reports((, plans,)) and ((specifications)) construction documents in accordance with engineering criteria approved by the department.

((5)) (6) An advisory committee shall be established to provide guidance to the department ((concerning)) on drinking water issues. The committee shall be appointed by the department and conform to department policies for advisory committees. The committee shall be composed of representatives of public water systems, public groups, agencies, and individuals ((involved with or)) having an interest in drinking water.

((6)) (7) The department may develop guidelines to clarify sections of the ((regulations)) rules as needed and make these available for distribution.

((7)) (8) Fees may be charged by the department as authorized in chapter 43.20A RCW and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of ((operational)) the costs incurred in administering these ((regulations)) rules.

((8) The applicant should allow a minimum of thirty days for the department to review documents that are submitted for approval.))

(9) All ((other)) state and local agencies involved in review, approval, surveillance, testing, and/or operation of public water systems, or issuance of permits for buildings or sewage systems shall be governed by these rules ((and regulations)) and any decisions of the department ((pursuant hereto)).

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-035 REQUIREMENTS FOR ENGINEERS. (1) All water system plans, ((engineering reports, and plans and specifications submitted to the department for new public water systems, extensions, or alterations as required in WAC 248-54-065, 248-54-085, and 248-54-095, except minor projects not requiring engineering expertise as determined by the department)) project reports, and construction documents shall be prepared by a professional engineer licensed in the state of Washington ((in accordance with)) per chapter 18.43 RCW and shall bear ((his or her)) the engineer's seal and signature. Exceptions to this requirement are:

(a) Minor projects not requiring engineering expertise as determined by the department per WAC 248-54-096(2); and

(b) Class 4 public water systems consisting of a simple well and pressure tank system with one pressure zone and not providing treatment. These systems may be designed by a water system designer certified by the local health jurisdiction in those counties having a recognized water system designer program.

(2) ((A construction report)) 'A Construction Report For Public Water System Projects' shall be submitted to ((and accepted by)) the department on a form provided by the department within ((sixty)) 60 days of completion and prior to use of any project ((for which plans and specifications have been)) approved by the department ((for projects designed by a professional engineer)). The ((construction report)) form must be signed by a professional engineer or in the case of projects not requiring engineering expertise as outlined in this section, the certified designer. The ((report)) form shall state ((in the opinion of the signee whether)) the project has been constructed and is substantially completed in accordance with approved ((plans and specifications)) construction documents and, in the opinion of the engineer, based on information available, the installation, testing, and disinfection of the system ((were)) was carried out ((in accordance with)) per department ((regulations)) rules.

(3) It shall be the responsibility of the purveyor to assure the requirements of this section have been fulfilled prior to the use of any completed project((, and an updated water facilities inventory (WFI) form has been submitted)). When necessary((. The WFI)) an updated water facilities inventory shall accompany the ((construction report)) 'Construction Report For Public Water System Projects' form.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-045 ENFORCEMENT. When any public water system is ((found to be)) out of compliance with these ((regulations)) rules, the department may initiate appropriate enforcement actions ((may be initiated)), regardless of any prior approvals issued by the department. These actions may include any one or combination of the following:

(1) ((Noncompliance)) Issuance of letters ((informing the public water purveyor of noncompliance and)) instructing or ((requesting)) requiring appropriate corrective measures(:);

(2) Issuance of a compliance schedule for specific actions necessary ((for the water purveyor)) to achieve compliance status(:);

(3) Issuance of departmental orders ((instructing the public water purveyor to take)) requiring specific ((required)) actions or ((cease)) ceasing unacceptable activities within a designated time period. In emergency situations, orders may be issued in the field ((by the department)) requiring immediate actions be taken(:);

(4) Departmental orders to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;

(5) Imposition of civil penalties for failure to comply with departmental orders may be issued for up to 5,000 dollars per day under authority of chapter 70.119A RCW. The department is authorized to levy penalties only in specific cases where either a public health emergency has been declared or in the case of chronic violators who refuse to correct a health problem after repeated requests from the department. An appeal process is identified in the law; and

(6) Legal action may be taken by the attorney general or local prosecutor. The legal action ((requested)) may be criminal or civil.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-055 ((WAIVER)) VARIANCES, WAIVERS, AND EXEMPTIONS. The state board of health may ((waive)) grant variances, waivers, and exemptions of any portion of these ((regulations, pursuant to WAC 248-08-595)) rules per WAC 248-08-596: PROVIDED, That ((the waiver is)) they are consistent with the intent of these ((regulations)) rules and no public health hazard will result((, and the waiver will not be in conflict with the requirements of the Federal Safe Drinking Water Act)).

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-065 WATER SYSTEM PLAN. (1) The purpose of this section is to establish a uniform process for public water systems to:

(a) Identify present and future needs ((and));
(b) Set forth means for meeting those needs ((in an efficient)); and

(c) Do so in a manner consistent with other relevant plans and ((policies affecting the area where they are located)) local, state, and federal laws.

(2) The following categories of public water systems shall develop ((an implementable)) a water system plan for review and approval by the department:

(a) All public water systems having one thousand or more services(:);

(b) Public water systems located in areas utilizing the Public Water System Coordination Act of 1977, chapter 70.116 RCW and chapter 248-56 WAC;

(c) Any public water ((systems with one hundred to nine hundred ninety-nine services as required by the department. The department may require a water system plan in the following situations:

(i) New systems;
(ii) Expansion of existing system facilities and/or operations;

(iii) Any)) system experiencing ((water supply)) problems related to ((inadequate)) planning(:;

(c) Public water systems located in areas utilizing the Public Water System Coordination Act of 1977, chapter 70.116 RCW)), operation, and/or management as determined by the department; and

(d) Any new public water system as determined by the department.

(3) The department shall work with the purveyor and other parties to establish the level of detail for a water system plan. In general, the scope and detail of the ((water system)) plan will be ((directly)) related to size and complexity of the water system. ((An engineering)) Project reports may be combined with a water system plan ((when both are required for water systems defined in this section)).

(4) The water system plan shall address the following elements as a minimum for a period of at least ten years into the future. A department guideline titled Planning Handbook is available ((from the department)) to assist the utility in adequately addressing these elements:

- (a) Basic water system planning data((:)),
- (b) Existing system analysis((:)),
- (c) Planned improvements((:)),
- (d) Financial program((:)),
- (e) Relationship and compatibility with other plans((:)),
- (f) Supporting maps((:)),
- (g) Operations program ((~~see WAC 248-54-195~~)),
- (h) State Environmental Policy Act((:)), and
- (i) Watershed control when applicable (see WAC 248-54-225).

(5) Department approval of a water system plan shall be in effect for ((up to)) five years ((after)) from the date of ((issuance appearing on the formal letter of)) written approval((:)).

((f)) (a) The purveyor shall update the water system plan every five years or sooner if any of the following occurs)) unless:

((f)) (a) Major system improvements are contemplated which are not addressed in the ((water system)) plan((:)),

((f)) (b) Changes occur in the basic planning data affecting improvements identified ((in the plan:)), and

((f)) (c) The department requests an updated plan.

((f)) (6) The purveyor shall update the plan and submit it for approval every five years. However, if ((after five years no)) only minor alterations to ((the)) an existing plan ((is)) are considered necessary, the purveyor ((shall)) may submit evidence supporting this conclusion in a letter to the department for approval.

((f)) (7) ((Engineering)) Project reports and ((plans and specifications)) construction documents submitted for approval ((in accordance with)) per WAC ((248-54-085)) 248-54-086 and ((248-54-095)) 248-54-096 by purveyors required to have a water system plan, will not be considered for approval unless there is a current approved water system plan and the plan adequately addresses the project.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 248-54-086 PROJECT REPORT. (1) The purpose of this section is to assure the following factors are taken into account for specific projects prior to construction:

- (a) Engineering concepts,

- (b) Design criteria,
- (c) Planning,
- (d) Source protection,
- (e) Water quality,
- (f) Local requirements such as fire flow, and
- (g) Other necessary considerations as determined by the department.

This report shall document the reasons for carrying out the project and WAC 248-54-096 shall identify how the project will be constructed.

(2) Project reports shall be submitted to the department for written approval prior to installation of any new water system, water system extension, or improvement with the following exceptions:

- (a) Installation of valves, fittings, and meters;
- (b) Installation of hydrants per WAC 248-54-135(3);
- (c) Repair of a system component or replacement with a similar component;
- (d) Maintenance or painting of surfaces not contacting potable water; and
- (e) Distribution mains if approved standard construction specifications are documented in the water system plan approved by the department.

(3) Project reports shall be consistent with the standards identified in WAC 248-54-105 and shall include, at a minimum, the following (information contained in a current approved water system plan or current project report need not be duplicated in the new project report. Any planning information in a project report shall be project specific.):

(a) Project description. Identify what the project is intended to achieve, design considerations, approach, etc.;

(b) Planning. If the system has an approved water system plan, show the project's relationship to the plan. If a water system plan is not required, include:

- (i) General project background with population and water demand forecasts,
- (ii) Relationship between the project and other system components,
- (iii) Project schedule,
- (iv) Operations program, and
- (v) How the project will impact neighboring water systems.

(c) Alternatives. Describe options, their impacts, and justify the selected alternative;

(d) Legal considerations. Identify legal aspects such as ownership, right-of-way, sanitary control area, and restrictive covenants. Include discussion of the project's relationship with the boundary review board and the utility and transportation commission;

(e) Engineering calculations. Describe how the project complies with the design considerations. Include the hydraulic analysis, sizing justification, and other relevant technical considerations necessary to support the project;

(f) Management. If the system has an approved operations program, refer to that document. If not, describe:

- (i) System ownership and management responsibilities,
- (ii) Long-term management considerations,
- (iii) How the project will be operated, and
- (iv) How the project will be maintained over time.

(g) Implementation. Identify the schedule for completion of the project and implementation strategies, if any. Project phasing should also be discussed;

(h) State Environmental Policy Act. Include an Environmental Impact Statement, Determination of Non-Significance, or justify why SEPA does not apply to the project. Refer to chapter 248-06 WAC and the "DSHS drinking water SEPA guide";

(i) Source development information. If the project involves source, refer to requirements per WAC 248-54-097; and

(j) Type of treatment. If the project involves treatment, refer to WAC 248-54-155.

(k) The information required in this subsection shall be included in a letter addendum to a class 4 workbook for class 4 systems.

(4) Approval of project documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

NEW SECTION

WAC 248-54-096 CONSTRUCTION DOCUMENTS. (1) The purpose of this section is to assure detailed plans, specifications, drawings, and other documents are adequately prepared for specific projects. These documents shall identify how specific projects will be constructed while WAC 248-54-086 documents the reasons for carrying out the project.

(2) Construction documents shall be submitted to the department for written approval prior to installation of any new water system, or water system extension or improvement with the following exceptions:

- (a) Installation of valves, fittings, and meters;
- (b) Installation of hydrants per WAC 248-54-135(3);
- (c) Repair of a system component or replacement with a similar component;

- (d) Maintenance or painting of surfaces not contacting potable water;

- (e) Distribution mains if the approved water system plan documents standard construction specifications approved by the department.

(3) Construction documents shall be consistent with the standards identified in WAC 248-54-105 and shall include, at a minimum, the following:

- (a) Drawings. Include detailed drawings of each project component;

- (b) Material specifications. List detailed material specifications for each project component;

- (c) Construction specifications. List detailed construction specifications and assembly techniques for carrying out the project;

- (d) Testing. Identify testing criteria and procedures for each applicable portion of the project;

- (e) Disinfection. Identify specific disinfection procedures which must conform with American water works association standards or other standards acceptable by the department;

(f) Inspection. Identify provisions for inspection of the installation of each project component. See WAC 248-54-035 for construction reporting requirements; and

(g) Change orders. All changes except for minor field revisions must be submitted to and approved by the department in writing. Identify who will be responsible for obtaining departmental approval and how change orders will be reported to the department.

(4) Approval of construction documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

(5) A department guideline titled Planning Handbook is available to assist the utility in meeting the requirements of this section.

NEW SECTION

WAC 248-54-097 SOURCE APPROVAL. Information regarding new, previously unapproved sources, or modification of existing sources of supply shall be provided as follows.

(1) Prior to source development, an on-site inspection and approval made by the department or a local health department representative is required. A copy of the site approval and a map of the site and vicinity shall be included with the construction documents.

(2) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use.

(3) A copy of the water well report.

(4) A general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow within the watershed or recharge area.

(5) For unfiltered surface water, the watershed control program identified in WAC 248-54-225.

(6) Upstream water uses affecting either water quality or quantity.

(7) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water.

(8) The dimensions and location of sanitary control area as set forth in WAC 248-54-125.

(9) Copies of the recorded legal documents for the sanitary control area necessary to protect the source of supply.

(10) A hydrogeologic assessment of the proposed source with respect to the probable long-term capacity of the source to meet system needs. Source development data for spring and surface sources shall include seasonal variation.

(11) The results of an initial analysis of the raw water quality, including as a minimum a bacteriological and complete inorganic chemical and physical analysis from each source. When source water quality is subject to variation, additional monitoring may be required by the department to define the range of variation. If the source

being approved is for a class 1 or 2 public water system, a radionuclide analysis shall also be required.

(12) Well source development data to establish the capacity of the source shall include static water level, yield, the amount of drawdown, recovery rate, and duration of pumping. Interference between existing sources and the source being tested must also be shown. To determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine the proper pump settings in the well, the source shall be pump tested at no less than the maximum design rate. A department guideline on pump testing is available to assist purveyors.

(13) Detailed information regarding all aspects of water quality addressed in WAC 248-54-175. If treatment is planned, refer to WAC 248-54-155(2).

(14) Other information may be required by the department. Prior to initiating source development or modification, the purveyor should contact the department in order to identify any such additional information.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-105 DESIGN STANDARDS. (1) Good engineering ((practice, such as the current edition of Recommended Standards for Water Works, a Committee Report of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers, department guidelines - Sizing Guidelines for Public Water Supplies, American Public Works Association (APWA), American Water Works Association (AWWA) standard specifications or other design criteria and standards acceptable to the department;)) practices shall be used in the design of all public water systems, such as those set out in:

(a) The most recently published edition of Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers;

(b) Department guideline titled Sizing Guidelines for Public Water Supplies;

(c) Standard specifications of the American public works association;

(d) Standard specifications of the American water works association; and

(e) Design criteria, such as contained in current college texts and professional journal articles, acceptable to the department; and

(f) WAC 173-160 Minimum Standards for Construction and Maintenance of Water Wells.

(2) In addition, all new or expanding public water systems shall use the following design factors:

(a) Historical water use,

(b) Community versus recreational uses of water,

(c) Local conditions and/or regulations,

(d) Community expectations,

(e) Public Water System Coordination Act considerations where appropriate,

(f) Risks from potential disasters, and

(g) Other requirements as determined by the department.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-125 SOURCE PROTECTION. Public drinking water shall be obtained from the highest quality source feasible. Existing and proposed sources of supply shall conform to the water quality standards established in WAC 248-54-175.

(1) For wells and springs, the ((water purveyor shall provide an area of)) minimum sanitary control ((for)) area shall have a radius of one hundred feet (thirty meters) and two hundred feet (sixty meters) respectively((; except the water purveyor shall control land of a greater or lesser size or of a different shape than is defined by a one hundred or two hundred foot radius where an)), unless engineering justification ((has been reviewed and accepted by the department)) supports a smaller area. The ((engineering)) justification must address geological and hydrological data, well construction details, and other relevant factors ((indicating a control area of different size or shape is necessary)) needed to assure adequate sanitary control ((in the vicinity of the source)). The department may require a larger sanitary control area than is set forth above if geological and hydrological data supports such a decision. It shall be the purveyor's responsibility to obtain the protection needed.

Within the control area, no source of contamination may be constructed, stored, disposed of, or applied without the permission of the department and the purveyor.

(2) The control area for new sources must be owned by the ((water)) purveyor in fee simple, or ((he or she)) the purveyor must have the right to exercise complete sanitary control of the land through other legal provisions.

A purveyor, owning all or part of the sanitary control area in fee simple((;)) or ((who has)) having possession and control ((of the sanitary control area, even though the legal title is held by another)), shall ((convey)) send to the department ((a restriction on the use of the land in accordance with these rules, by appropriate)) copies of legal ((document)) documentation, such as a duly recorded declaration of covenant, restricting the use of the land. This document shall state no source of contamination may be constructed, stored, disposed of, or applied without the permission of the department and the purveyor, and if any change in ownership of the system or sanitary control area is considered, all affected parties shall be informed of these requirements.

Where portions of the control area are in the possession and control of another, the purveyor must obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with these rules((, which shall be recorded in the county wherein the land is located)) and provide the department with copies of the appropriate documentation.

((2))) (3) Adequate watershed control, consistent with treatment provided, shall be demonstrated and documented for all surface water sources ((pursuant to)) per WAC 248-54-225. A section in the department guideline ((regarding)) titled Planning Handbook deals with watershed control and is available to assist utilities in this regard.

((3) In situations where regional ground water resources are being utilized, collaborative actions may be taken by appropriate local, state, or federal agencies when necessary to protect underground sources of drinking water. These may include, but not be limited to: Sole source aquifer designation, special design criteria, or ground water resource management)) (4) Where, in the opinion of the department a potential risk exists to the water quality of a source, additional controls or monitoring may be required.

NEW SECTION

WAC 248-54-131 LEAD IN MATERIALS. (1) Any pipe, pipe fittings, solder, or flux used in the installation or repair of a public water system shall be lead-free. This prohibition shall not apply to leaded joints necessary for the repair of cast iron pipes.

(2) Within the context of this section, lead-free shall mean:

(a) No more than eight percent lead in pipes and pipe fittings, and

(b) No more than two-tenths of one percent lead in solder and flux.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-135 DISTRIBUTION SYSTEMS. (1) All new distribution reservoirs shall have suitable watertight roofs or covers ((which excludes)) preventing entry by birds, animals, insects, and dust((;)) and shall include appropriate provisions to safeguard against trespass, vandalism, and sabotage. Existing uncovered distribution reservoirs shall comply with the provisions of WAC 248-54-245.

(2) ((Distribution systems)) The purveyor shall ((be)) size and ((evaluated by use of)) evaluate the distribution system using a hydraulic analysis acceptable to the department.

(3) ((In general,)) The minimum diameter of all distribution mains ((should)) shall be six inches (150 mm) unless justified by hydraulic analysis. Systems designed to provide fire flows shall have a minimum distribution main size of six inches (150 mm). Installation of standard fire hydrants shall not be allowed on mains less than six inches (150 mm) in diameter. ((In general, distribution lines smaller than two inches (50 mm) in diameter are not acceptable, except for class 4 systems, when justified by hydraulic analysis.))

(4) New public water systems or additions to existing systems shall provide a design quantity of water at a positive pressure of at least 30 psi (200 kPa) under maximum instantaneous demand flow conditions measured at ((the)) any customer's water meter or at the property line ((of the premises when meters are not used. When a system is being designed to provide fire flows, a positive pressure shall be maintained throughout the system under fire flow conditions at the water meter or at the property line)) if no meter exists.

(5) If fire flow is to be provided, the distribution system shall be designed to provide the required fire flow at a pressure of at least 20 psi during MID conditions.

((If individual)) Booster pumps ((are used to maintain adequate pressure in a customer's system,)) needed for individual services shall be subject to review and approval by the department. Installation shall be made under the supervision of the purveyor to assure ((minimum pressure)) cross-connection control requirements ((in the purveyor's system)) are ((maintained at all times. Low pressure cutoff switches may be required on the suction side of the pump)) met.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-145 DISINFECTION OF FACILITIES. No portion of a public water system containing potable water shall be put into service, nor ((may the use of any facility)) shall service be resumed ((after being out of service)), until the facility has been effectively disinfected. The procedure used for disinfection shall conform to the American water works association standards or other standards acceptable to the department. In cases of new construction, drinking water shall not be furnished ((for the use of)) to the consumer until satisfactory bacteriological samples have been analyzed by a laboratory ((having a current certificate of approval from the department and satisfactory results obtained)) certified by the state.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-155 TREATMENT DESIGN. (1) Finished water quality from existing and proposed sources of supply shall conform to the minimum water quality standards established in WAC 248-54-175.

(2) Predesign studies shall be required for proposed surface water supplies and those ground water supplies requiring treatment. The goal of the predesign study shall be to establish the most acceptable method to produce satisfactory finished water quality and shall be done in conjunction with a project report as per WAC 248-54-086.

(3) The minimum level of treatment for all ((ground)) public water supplies shall be continuous and effective disinfection. The requirement for disinfection may be waived for public water systems with:

(a) Well sources ((with a));

(i) Having a satisfactory bacteriological history, and
(ii) Drawing from a protected ((ground water)) aquifer as determined by the department((, or)).

(b) Spring sources ((with a));

(i) Having a satisfactory bacteriological history ((provided sufficient));
(ii) Having evidence ((is submitted to the department demonstrating)) to demonstrate, to the satisfaction of the department, the spring originates in a stratum not subject to contamination; and

(iii) Where the water is collected by a method precluding contamination.

(4) ((The minimum)) Treatment for surface water supplies shall be coagulation, flocculation, filtration, and disinfection. In certain cases ((with cost analysis and

adequate engineering justification), alternative treatment designs followed by disinfection may be acceptable to the department, provided there is adequate engineering justification.

(5) Disinfection as the sole means of treatment for existing surface water supplies may be acceptable to the department provided the purveyor can demonstrate ((to the satisfaction of the department)) adequate:

(a) Watershed control ((pursuant to)) per WAC 248-54-225,

(b) Raw and finished water quality, and

(c) Water system design and operation.

((5)) (6) Disinfection methods, other than ((chlorine)) chlorination, i.e., ozonation, ultraviolet radiation, iodination may be approved by the department ((under special circumstances)) with appropriate engineering justification.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-165 MONITORING REQUIREMENTS. (1) General.

(a) The purveyor shall be responsible for satisfying ((the)) all requirements of this section. The monitoring requirements in this section are minimums. Additional monitoring may be required by the department.

(b) Samples required in this section shall be collected, transported, and analyzed according to methods approved by the department. The analyses shall be done ((only)) by the state public health laboratory or by any other laboratory ((having a current certificate of approval from)) certified by the state ((office of laboratories and epidemiology)) for the analyses to be performed, except turbidity as required by ((this section)) WAC 248-54-165(4) may be tested by ((qualified)) water utility ((operators)) or health department personnel.

(c) When one public water system receives water from another public water system, the receiving system is required to take only the bacteriological samples as noted in Table 1 or Table 2 as appropriate.

Subject to revision as appropriate, the department may reduce the monitoring requirement of the receiving system provided the receiving system:

(i) Has had a good water quality history,

(ii) Is operated in a satisfactory manner consistent with these regulations, ((and))

(iii) Is included in the supplying ((system includes the receiving system in a)) system's regular monitoring schedule, and ((includes))

(iv) Is included in the ((number of services)) service and population ((of the receiving system in the)) totals ((of)) for the supplying system.

Periodic reviews of the system's sampling record ((with)) may be made to determine if continued reduction is appropriate.

(d) Special purpose samples, such as check samples or samples taken to determine if disinfection following pipe repair has been sufficient, shall not count toward fulfillment of these monitoring requirements.

(e) All monitoring requirements in subsections (2) through ((9)) (11) of this section apply equally to systems serving permanent or transitory populations unless otherwise stated.

(2) Bacteriological.

(a) Drinking water samples shall be collected for bacteriological analysis from representative points in the distribution system at regular time intervals.

(b) The frequency for monitoring drinking water shall be determined according to the following:

(i) For systems whose class is determined by the number of permanent connections served, the minimum number of routine samples to be analyzed is shown on Table 1.

(ii) For class 3 systems ((whose class is determined by the transitory population served)), the minimum number of routine samples to be analyzed is shown ((on)) in Table 2. In the case where ((class is determined by)) an ((event of)) activity lasts for one week or less ((in duration)), sampling frequency shall be as directed by the ((health officer)) department.

(iii) For systems having both permanent connections and transitory population, the minimum number of routine samples to be analyzed may vary from month to month. The number of samples required each month will be the higher number of samples from Table 1 and Table 2.

(c) When disinfection is practiced, the purveyor shall collect untreated (raw) water samples from each source for bacteriological analysis of total coliform in addition to the number of treated samples required. The frequency of monitoring untreated water shall be determined according to the following:

(i) For protected ground water sources, one sample every three months shall be analyzed.

(ii) For unprotected ground water sources, the number of samples analyzed shall be twenty percent of the distribution samples required each month, and in no case less than one every three months.

(iii) For surface sources with treatment including coagulation, filtration, and disinfection or other treatment ((practice)) process, the number of samples analyzed shall be ten percent of the distribution samples required each month, and in no case less than one every three months.

(iv) For surface sources without coagulation and filtration treatment, the number of samples analyzed shall be twenty percent of the distribution samples required each month, and in no case less than one every three months.

TABLE 1

MINIMUM NUMBER OF ROUTINE BACTERIOLOGICAL SAMPLES TO BE TAKEN FROM THE DISTRIBUTION SYSTEM FOR SYSTEMS WHOSE SAMPLING REQUIREMENTS ARE BASED ON PERMANENT SERVICES

Number of Permanent Services	Permanent Population* Served	Minimum No. of Samples Per Month	Permanent Population Served	Minimum No. of Samples Per Month
((3)) 2 - 9	-	1 every 12 months	37,001 -	41,000
10 - 99	-	1**	41,001 -	46,000
100 or more	Less than 1,001	1	46,001 -	50,000
	1,001 - 2,500	2	50,001 -	54,000
	2,501 - 3,300	3	54,001 -	59,000
	3,301 - 4,100	4	59,001 -	64,000
	4,101 - 4,900	5	64,001 -	70,000
	4,901 - 5,800	6	70,001 -	76,000
	5,801 - 6,700	7	76,001 -	83,000
	6,701 - 7,600	8	83,001 -	90,000
	7,601 - 8,500	9	90,001 -	96,000
	8,501 - 9,400	10	96,001 -	111,000
	9,401 - 10,300	11	111,001 -	130,000
	10,301 - 11,100	12	130,001 -	160,000
	11,101 - 12,000	13	160,001 -	190,000
	12,001 - 12,900	14	190,001 -	220,000
	12,901 - 13,700	15	220,001 -	250,000
	13,701 - 14,600	16	250,001 -	290,000
	14,601 - 15,500	17	290,001 -	320,000
	15,501 - 16,300	18	320,001 -	360,000
	16,301 - 17,200	19	360,001 -	410,000
	17,201 - 18,100	20	410,001 -	450,000
	18,101 - 18,900	21	450,001 -	500,000
	18,901 - 19,800	22	500,001 -	550,000
	19,801 - 20,700	23	550,001 -	600,000
	20,701 - 21,500	24	600,001 -	660,000
	21,501 - 22,300	25	660,001 -	720,000
	22,301 - 23,200	26	720,001 -	780,000
	23,201 - 24,000	27	780,001 -	840,000
	24,001 - 24,900	28	840,001 -	910,000
	24,901 - 25,000	29	910,001 -	970,000
	25,001 - 28,000	30	970,001 -	1,050,000
	28,001 - 33,000	35	1,050,001 -	1,140,000
	33,001 - 37,000	40	More than	1,140,001

*Does not include population of utilities wholesaled to, except as provided in WAC 248-54-165 (1)(c).

**May be reduced by the department to no less than one every three months for systems with protected ground water sources.

***See Federal Regulation 12-24-75, EPA, National Interim Primary Drinking Water Regulations, Section 141.21.

TABLE 2

MINIMUM NUMBER OF ROUTINE BACTERIOLOGICAL SAMPLES TO BE TAKEN FROM THE DISTRIBUTION SYSTEM FOR WATER SYSTEMS WHOSE SAMPLING REQUIREMENTS ARE DETERMINED BASED ON TRANSITORY POPULATIONS

Maximum Day Population Served in Any One Month	Minimum Number Samples That Month
Less than 25	1 every 12 months
25 - 299	1 every 3 months
300 - 999	1*
1,000 - 2,499	2

Maximum Day Population Served in Any One Month Minimum Number Samples That Month

2,500 -	3,499	3
3,500 -	4,999	4
5,000 -	9,999	6
10,000 -	14,999	8
15,000 -	19,999	10
20,000 -	29,999	12
30,000 -	39,999	14
40,000 -	49,999	16

Maximum Day Population Served in Any One Month	Minimum Number Samples That Month
50,000 - 74,999	20
75,000 - 99,999	25
100,000 or more	30

*May be reduced by the department to one every three months for systems with protected ground water sources.

(3) Inorganic chemical and physical.

(a) The complete inorganic chemical and physical analysis consists of the primary and secondary chemical and physical standards.

(i) Primary chemical and physical standards - Arsenic, barium, cadmium, chromium, fluoride, lead, mercury, nitrate (as N), selenium, silver, sodium, and turbidity.

(ii) Secondary chemical and physical standards - Chloride, color, copper, hardness, iron, manganese, specific conductivity, sulfate*, total dissolved solids*, and zinc.

*Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Samples taken for inorganic chemical analyses shall be collected at the source prior to any treatment.

(c) The frequency for monitoring shall be according to the following:

(i) Class 1 and 2 systems shall have one complete analysis from each surface water source every twelve months.

(ii) Class 1 and 2 systems shall have one complete analysis from each ground water source or well field every thirty-six months.

(iii) Class ((1T, 2T)) 3((;)) and 4((, and 4T)) systems shall have one initial complete analysis from each source or well field. The minimum requirement for the initial complete analysis may be waived or reduced by the department if available information shows to the satisfaction of the department that the aquifer provides water of satisfactory inorganic chemical quality.

(iv) After the initial complete analysis, class 3 and 4 systems shall have ((analyzed from each source or well field)) one nitrate sample analyzed from each source or well field every thirty-six months.

(d) When treatment is provided for one or more inorganic chemical or physical contaminants, samples shall be taken for the specific contaminant or contaminants before and after treatment. The frequency shall be determined by the department.

(4) Turbidity.

(a) Class 1, 2, and 3 systems with surface water sources shall ((continuously)) monitor turbidity at least once a day.

(b) ((Automatic)) Turbidity ((measuring and recording equipment)) shall be ((operated)) monitored at or before the entry point to the distribution system and where needed for treatment process control. ((Manual monitoring of turbidity may be allowed by the department in special cases.))

(c) The monitoring requirements for class 4 systems shall be determined by the department.

(d) Turbidimeters shall be properly operated, maintained, and calibrated at all times, based on the manufacturer's recommendations.

(5) Trihalomethanes.

(a) Class 1 ground water systems serving a population of 10,000 or more and using chlorine or other oxidants in the treatment process shall monitor for maximum total trihalomethane(s) potential (MTP). These ground water systems shall collect one sample from each treated well or well field every 12 months. This sample should be taken at the source prior to treatment. If this is not possible, the sample should be taken at the extreme end of the distribution system. This sample shall be analyzed for maximum total trihalomethane potential (MTP).

(b) ((Systems with)) Class 1 surface water ((sources)) systems serving a population of 10,000 or more and using chlorine or other oxidants in the treatment process, shall monitor for total trihalomethanes (TTHM) according to the following schedule:

(i) Four samples shall be collected for each treatment plant every three months ((shall be collected)). The samples shall be taken within a twenty-four hour period ((with)). Twenty-five percent of the samples shall be taken from the extreme end of the distribution system and seventy-five percent from locations representing the population distribution. The samples shall be analyzed for total trihalomethanes (TTHM).

(ii) The monitoring requirement may be reduced after one year ((of taking samples)) if the TTHM levels are less than 0.10 mg/L. The reduced frequency will be a minimum of one sample every three months for each treatment plant, taken at a point representative of the extreme end of the distribution system.

((c) Systems with ground water sources shall collect one sample for each treatment plant or plant or well field every twelve months. This sample shall be analyzed for maximum total trihalomethane potential (MTP).))

(6) Corrosivity.

(a) Class 1 and 2 systems shall monitor for corrosion characteristics ((according to the following)) as follows:

(i) Systems with surface water sources shall take ((a series)) two sets of three samples ((twice)) during a consecutive twelve-month period ((at appropriate times defining)). One set shall be taken during the winter and one during the summer ((water quality during that period)). One of the ((sample)) samples in each set shall be taken from ((each)) the source (prior to treatment) and ((for each source,)) two ((additional)) samples shall be collected from free-flowing outlets at different locations within the distribution system ((reasonably judged to represent)) representing worst case locations for corrosion((, to screen for corrosion effects)). ((Samples from)) Additional ((distribution system locations)) samples may be required ((in)) from larger systems using several pipe materials.

(ii) Systems with ground water sources shall take ((a series)) one set of samples ((once)) during a twelve-month period in the same manner as required for surface water sources.

(b) The analysis shall be for the corrosion byproducts including cadmium, copper, iron, lead, and zinc. In addition, alkalinity, pH, hardness, temperature, total dissolved solids (TDS), and the Langelier index value shall be determined for the source samples.

(c) Monitoring of corrosion characteristics after the initial sampling has been completed shall be as required by the department.

(7) Pesticides.

Class 1 and 2 systems with surface water sources shall monitor for pesticides for which MCLs are established every thirty-six months or as directed by the department. The sample shall be collected during the time of year designated by the department as the time when pesticide contamination is most likely to occur.

(8) Radionuclides.

(a) Monitoring requirements for gross alpha particle activity, radium-226 and radium-228 are:

(i) Class 1 and 2 systems shall monitor once every forty-eight months or as directed by the department. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals.

(ii) Analysis for radium-226 and radium-228 may be omitted if the gross alpha particle activity is less than five pCi/L.

(iii) If the results of the initial analysis are less than half of the established MCL, the department may allow compliance with the monitoring requirements to be

based on analysis of a single sample collected every forty-eight months.

(b) Monitoring requirements for man-made radioactivity:

(i) Class 1 systems using surface water sources and serving more than one hundred thousand persons and other water systems designated by the department shall monitor for man-made radioactivity (beta particle and photon) every forty-eight months or as required by the department. Compliance shall be based on the analysis of a composite of four consecutive quarterly samples or the analysis of four quarterly samples.

(ii) Any water system, as directed by the department, downstream from a nuclear facility shall monitor once every three months for gross beta and iodine-131, and monitor once every twelve months for strontium-90 and tritium. The department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity after a determination that such data is applicable to a particular public water system.

(9) Other organic compounds with established MCLs shall be monitored as directed by the department.

(10) Organic compounds with no established MCL shall be monitored as directed by the department.

(11) Other ((parameters)) substances.

On the basis of public health concerns, monitoring of additional ((parameters)) substances may be required by the department.

TABLE 3
MINIMUM MONITORING REQUIREMENTS

System Class	Sample Type	((Minimum)) Number of Samples Required*
1 and ((1F) 2	Bacteriological	((Permanent connections =)) Refer to Table 1 ((Transitory population = refer to Table 2))
	Inorganic Chemical and Physical (Primary and Secondary)	Surface water sources – one complete analysis per source every 12 months Ground water sources – one complete analysis per source or well field every 36 months
	Turbidity	Surface water sources – ((continuously)) daily
	Trihalomethanes	Systems with 10,000 or more population ((only)) and using chlorine. Surface water sources – 4 per ((treatment plant)) treated source every 3 months. After one year may be reduced to 1 per ((plant)) source every 3 months Ground water sources – 1 per ((plant)) treated source every 12 months
	Corrosivity	Surface water sources – 2 sets per ((treatment plant)) source during a 12-month period Ground water sources – 1 set per ((plant)) source or well field during a 12-month period
	Pesticides	Once every 36 months for surface water sources ((or as directed by the department))

System Class	Sample Type	((Minimum)) Number of Samples Required*
	<u>Radionuclides</u> <u>Other Organics</u>	Once every 48 months ((or)) As directed by the department
((2 and 2T	Bacteriological	Permanent connections - refer to Table 1 Transitory population - refer to Table 2
	Inorganic Chemical and Physical (Primary and Secondary)	Surface water sources - one complete analysis per source every 12 months Ground water sources - one complete analysis per source every 36 months
	Turbidity	Surface water sources - continuously
	Trihalomethanes	As required by the department
	Corrosivity	Surface water sources - 2 per treatment plant during a 12-month period Ground water sources - 1 per plant or well field
	Pesticides	Once every 36 months for surface water sources, or as directed by the department
	Radionuclides	Once every 48 months, or as directed by the department))
3	Bacteriological	((One every 3 months during which system provides drinking water to the public)) Refer to Table 2
	Inorganic Chemical and Physical (Primary and Secondary)	An initial complete analysis per source or well field unless waived by the department per WAC 248-54-165 (3)(c)(iii). After initial sample, one nitrate per source every 36 months
	Turbidity	Surface water sources - ((continuously)) daily
	Trihalomethanes, Corrosivity, Pesticides, ((and)) Radionuclides, and Other Organics	As required by the department
4 ((and 4T))	Bacteriological	One every 12 months
	Inorganic Chemical and Physical (Primary and Secondary)	An initial complete analysis per source or well field unless waived by the department per WAC 248-54-165 (3)(c)(iii). After initial sample, one nitrate per source every 36 months
	Turbidity, Trihalomethanes, Corrosivity, Pesticides, ((and)) Radionuclides, and Other Organics	As required by the department

*These are the minimum requirements. Additional monitoring may be required by the department.

TABLE 4

MONITORING LOCATION

Sample Type	Sample Location
Bacteriological	From representative points in distribution system.
Complete Inorganic Chemical and Physical	From a sample point as close to the source as possible.
Nitrate	From a sample point as close to the source as possible.
Turbidity - Surface Water	From a location at or before the entry point to the distribution system and where needed for treatment process control.
Tribhalomethanes - Surface Water	From representative points in the distribution system.
- Ground Water	From the source prior to treatment.
Corrosivity	From the source and at locations in the distribution system.
Pesticides - Surface Water	From the source.
Radionuclides	From the source.
Other Organics	As directed by the department.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-175 MAXIMUM CONTAMINANT LEVELS (MCLS). (1) The purveyor shall be responsible for complying with the standards of water quality identified in this section ((shall apply throughout the entire water system to the free-flowing outlet of the ultimate user of a public water system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system)).

The free-flowing outlet shall be considered any location in the active portion of the distribution system where water samples may be gathered representing the quality of water typically served to and ingested by the consumer).

If any ((parameter)) substance exceeds ((the)) its maximum contaminant level (MCL), the purveyor shall take follow-up action as outlined in WAC 248-54-185 ((shall be taken)).

(2) In enforcing the standards set out in this section, the department shall seek to enforce compliance with the

primary standards as its first priority. Secondary standards shall be enforced based on department discretion as the public interest warrants.

(3) Bacteriological.

(a) Standards set forth in this subsection shall be considered primary standards.

(b) If any coliform bacteria are present in any sample, follow-up action as ((outlined)) described in WAC 248-54-185(2) shall be taken.

((t(b))) (c) The ((maximum contaminant level)) MCL for coliform bacteria is as follows:

(i) When the membrane filter test is used, the number of coliform bacteria shall not be greater than:

(A) One per one hundred milliliters as the average of all samples tested each month;

(B) Four per one hundred milliliters in two or more samples when less than twenty samples are tested each month; or

(C) Four per one hundred milliliters in more than five percent of the samples when twenty or more samples are tested each month.

(ii) When the five-tube MPN method is used, coliform bacteria shall not be present in:

(A) More than ten percent of the tubes tested each month;

(B) Three or more tubes in two or more samples when less than twenty samples are tested each month; or

(C) Three or more tubes in more than five percent of the samples when twenty or more samples are tested each month.

(iii) The department may allow systems required to take less than four samples each month to base compliance with this section on the samples taken during the three-month period consisting of the month in question and the previous two months.

(iv) Special purpose samples, such as those taken to determine if disinfection following pipe repair or replacement has been sufficient, or check samples shall not be used to determine compliance with the ((maximum contaminant level)) MCL.

((t(v))) (v) Samples with unsuitable test results, i.e., confluent growth, TNTC (too numerous to count), excess debris, etc., will not qualify as routine samples and will not count toward fulfillment of the monitoring requirement.

(4) Inorganic chemical and physical.

The ((maximum contaminant levels)) MCLs are as ((follows)) listed in Table 5 and 6:

((Primary Chemical and Physical Contaminants	Secondary Chemical and Physical Contaminants	Level
Arsenic	0.05 mg/L	Chloride
Barium	1.0 mg/L	Color
Cadmium	0.01 mg/L	Copper
Chromium	0.05 mg/L	Iron
Fluoride	2.0 mg/L	Manganese
Lead	.05 mg/L	Specific conductivity
Mercury	.002 mg/L	Sulfate
Nitrate (as N)	10.0 mg/L	Total dissolved solids

Primary Chemical and Physical Contaminants	Secondary Chemical and Physical Contaminants	Level
Selenium	Zinc	.01 mg/L
Silver		.05 mg/L
Sodium		
Turbidity		1.0 TU)

TABLE 5**INORGANIC CHEMICAL CHARACTERISTICS**

Substance	Primary Maximum Contaminant Level (mg/L)
Arsenic (As)	0.05
Barium (Ba)	1.0
Cadmium (Cd)	0.01
Chromium (Cr)	0.05
Fluoride (F)	4.0
Lead (Pb)	0.05
Mercury (Hg)	0.002
Nitrate (as N)	10.0
Selenium (Se)	0.01
Silver (Ag)	0.05
Sodium (Na)	None established

Substance	Secondary Maximum Contaminant Level (mg/L)
Chloride (Cl)	250.0
Copper (Cu)	1.0
Fluoride (F)	2.0
Iron (Fe)	0.3
Manganese (Mn)	0.05
Sulfate (SO ₄)	250.0
Zinc (Zn)	5.0

TABLE 6**PHYSICAL CHARACTERISTICS**

Substance	Primary Maximum Contaminant Level (mg/L)
Turbidity	1 Turbidity Unit
Substance	Secondary Maximum Contaminant Level (mg/L)
Color	15 Color Units
Hardness	None established
Specific Conductivity	700 μ hos/cm
Total Dissolved Solids (TDS)	500 mg/L

Note: Although there has not been ((a maximum contaminant level)) an MCL established for sodium, there is enough public health significance connected with sodium levels to require inclusion in inorganic chemical and physical monitoring. ((Information on sodium levels in drinking water should be provided to physicians needing these results to treat persons on sodium-restricted diets.))

((4))) (5) Turbidity.

The ((maximum contaminant levels)) MCLs for turbidity are as follows:

(a) One nephelometric turbidity unit (NTU), based on a monthly average of the maximum daily turbidity, where the maximum daily turbidity is defined as:

(i) The average of the highest two hourly readings over a twenty-four hour period when continuous monitoring is used, or

(ii) The average of two grab samples taken within one hour when daily monitoring is used.

The limit may be increased to five NTUs if the purveyor can show the source is within a controlled watershed and meets all the requirements of WAC 248-54-125 and 248-54-225.

(b) Five NTUs based on an average of the maximum daily turbidity for two consecutive days.

((5))) (6) Trihalomethanes.

(a) Standards set forth in this subsection shall be considered primary standards.

(b) The ((maximum contaminant level)) MCL for total trihalomethanes (TTHM) is 0.10 mg/L. The concentrations of each of the trihalomethane compounds [trichloromethane (chloroform), dibromo-chloromethane, bromo(=)dichloromethane, and tribromomethane (bromoform)] are added together to determine the TTHM level.

(c) There is no MCL for maximum total trihalomethane potential (MTTP). If the MTTP value exceeds 0.10 mg/L, the purveyor shall follow up per WAC 248-54-185(5).

((6))) (7) Corrosivity.

Follow-up action as outlined in WAC 248-54-185 shall be taken if any corrosion byproduct ((parameter)) exceeds the ((maximum contaminant level)) MCL or the increase in ((parameter)) levels between source and distribution sampling points is significant((, follow-up action as outlined in WAC 248-54-185 shall be taken)).

The corrosivity characteristics as generalized by the Langelier index are as follows: Highly aggressive ((=<-2.0)) is less than -2, moderately aggressive ((=-2.0 to <0.0)) is -2 to 0, nonaggressive ((=>0.0)) is greater than 0.

((7))) (8) Pesticides.

(a) Standards set forth in this subsection shall be considered primary standards.

(b) The ((maximum contaminant levels)) MCLs for ((organic chemicals)) pesticides are as follows:

((a))) (i) Chlorinated hydrocarbons:

Endrin	0.0002 mg/L
Lindane	0.004 mg/L
Methoxychlor	0.1 mg/L
Toxaphene	0.005 mg/L

((b))) (ii) Chlorophenoxy:

2, 4-D	0.1 mg/L
2, 4, 5-TP Silvex	0.01 mg/L

((8))) (9) Radionuclides.

(a) Standards set forth in this subsection shall be considered primary standards.

(b) The ((maximum contaminant levels)) MCLs for radium-226, radium-228, and gross alpha particle radioactivity are as follows:

Radium-226	3 pCi/L
Combined Radium-226 and Radium-228	5 pCi/L
Gross alpha particle activity (excluding uranium)	15 pCi/L

((b)) (c) The ((maximum contaminant level)) MCL for beta particle and photon radioactivity from man-made radionuclides is that the average annual concentration shall not produce an annual dose equivalent to the total body or any internal organ greater than four millirem/year.

Compliance with the four millirem/year dose limitation may be assumed if the average annual concentration for gross beta activity, tritium, and strontium-90 are less than 50 pCi/L, 20,000 pCi/L, and 8 pCi/L respectively, provided that if both radionuclides are present, the sum of their annual dose equivalents to bone marrow shall not exceed four millirem/year.

((9)) (10) The maximum levels allowable for any additional ((parameters)) substances monitored shall be determined by the department.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-185 FOLLOW-UP ACTION. (1) General.

(a) If water quality exceeds any ((maximum contaminant levels (MCL))) MCLs listed in WAC 248-54-175, follow-up action as ((outlined)) described in this section shall be taken.

(b) When ((an)) a primary MCL has been exceeded, the purveyor shall notify the public according to the procedures outlined in WAC 248-54-255.

(c) When ((an)) a primary MCL violation ((is)) has been confirmed, the purveyor shall determine the cause of the contamination((:)) and take corrective action ((shall be taken)) as required by the department. The purveyor shall also notify the department within forty-eight hours.

(d) When a secondary MCL violation has been confirmed, the purveyor shall notify the department and take corrective action as directed by the department.

(2) Bacteriological.

(a) ((All additional samples required by this section shall be collected from the same location where the unsatisfactory sample was taken, except as specified by the department.

(b) All additional samples shall be submitted for analyses as soon as possible after the unsatisfactory results are known.

((c))) When any coliform bacteria is present in any sample analyzed by the membrane filter method, the purveyor shall take action as follows:

((When the sample result is less than two per one hundred milliliters, an additional drinking water sample shall be collected to verify the initial sample result:))

((two))) When the sample result is ((two)) one through four per one hundred milliliters, the sample is unsatisfactory and an additional drinking water sample shall be taken to confirm the presence of contamination.

((three))) (ii) When the sample result is greater than four per one hundred milliliters, the sample is unsatisfactory and nonconforming. The purveyor shall take action to determine and correct the cause of the contamination. Daily check samples shall continue to be collected until at least two consecutive daily check samples show less than one per one hundred milliliters coliform bacteria. ((When the presence of coliform bacteria in water has been confirmed by any daily check samples, the purveyor shall notify the department within forty-eight hours:))

((four))) (b) When any coliform bacteria is present in any sample analyzed by the five-tube MPN method, the purveyor shall take action as follows:

((When the sample result is one tube positive, the sample is unsatisfactory and an additional drinking water sample shall be collected to verify the initial sample result:))

((five))) When the sample result is one or two tubes positive, the sample is unsatisfactory and an additional drinking water sample shall be taken to confirm the presence of contamination.

((six))) (ii) When the sample result is three or more tubes positive, the sample is unsatisfactory and nonconforming. The purveyor shall take action to determine and correct the cause of the contamination. Daily check samples shall continue to be collected until at least two consecutive daily check samples show no coliform bacteria is present. ((When the presence of coliform bacteria in water has been confirmed by any daily check samples, the purveyor shall notify the department within forty-eight hours:))

((e))) Samples with unsuitable test results, i.e., confluent growth, TNTC (too numerous to count), excess debris, etc., will not be accepted as routine samples and will not count toward fulfillment of the monitoring requirement. The purveyor shall notify the department of these sample results within forty-eight hours:))

(c) All additional samples required by this section shall be collected from the same location where the unsatisfactory or unsuitable sample was taken, except as specified by the department.

(d) All additional samples shall be submitted for analyses as soon as possible after the unsatisfactory or unsuitable results are known.

(e) When the presence of coliform bacteria in water has been confirmed by check samples, the purveyor shall notify the department within forty-eight hours.

(f) When the sample result is marked unsuitable, an additional drinking water sample shall then be submitted for analysis for each unsuitable result immediately upon notification of the unsuitable result. The additional sample shall be analyzed by the MPN testing method.

((f)) (g) The location where the daily check samples were taken to fulfill the requirements of this section shall not be eliminated from future sampling without the department's approval.

(3) Inorganic chemical and physical.

(a) ((When a primary chemical or physical parameter exceeds the MCL, the purveyor shall take action to determine and correct the cause of the contamination. The purveyor shall notify the department of the violation within forty-eight hours. When a primary MCL violation is confirmed, the purveyor shall notify the public according to the procedures outlined in WAC 248-54-255. When a secondary MCL violation is confirmed, the purveyor shall notify the department and take corrective action as directed)) Confirming an MCL violation.

(i) The method for confirming an MCL violation for all inorganic chemical and physical ((parameters)) substances except nitrate is as follows: When an initial analysis of any ((parameter)) substance exceeds the MCL, the purveyor shall take three additional samples for analysis of that ((parameter)) substance within one month of the initial sample and from the same sampling point.

If the average of the initial analysis and the three additional analyses exceeds the MCL, a violation has been confirmed. The purveyor shall report the confirmed violation to the department. ((When a primary MCL violation occurs, the purveyor shall notify the public according to the procedures outlined in WAC 248-54-255.))

(ii) The method for confirming an MCL violation for nitrate is as follows: When an initial analysis for nitrate exceeds the MCL, the purveyor shall immediately take one additional sample from the same sampling point. If the average of the two samples exceeds the MCL, a violation has been confirmed. ((The purveyor shall report the confirmed violation to the department and notify the public according to the procedures outlined in WAC 248-54-255.))

(b) Since an MCL for sodium has not yet been established, the purveyor shall make analytical results available to the public on request. (This will allow physicians and persons on sodium-restricted diets to obtain results as needed.)

(4) Turbidity.

(a) When the turbidity exceeds the maximum allowable limit identified in WAC 248-54-175 for longer than one hour monitored continuously, the purveyor shall report to the department within forty-eight hours. When the results of a manual turbidity analysis exceeds the maximum allowable limit, another sample shall be collected within one hour. When the repeat sample confirms the maximum allowable limit has been exceeded, the purveyor shall notify the department ((within forty-eight hours. The purveyor shall also determine the cause

of the contamination and take necessary corrective action as required)).

(b) When the MCL is exceeded, the purveyor shall notify the department ((and notify the public according to the procedures)) within forty-eight hours ((outlined in WAC 248-54-255)).

(5) Trihalomethanes. When the average of all samples taken during any twelve-month period exceeds the MCL for total trihalomethanes, the ((purveyor shall notify the department within forty-eight hours and the public according to the procedures outlined in WAC 248-54-255)) violation is confirmed and the purveyor shall take correction action as required by the department. If the maximum trihalomethane potential result is equal to or greater than 0.10 mg/L and the result is confirmed by a check sample, the system shall monitor according to WAC 248-54-165 (5)(b)(i) for at least one year. ((The purveyor shall also take corrective action as required by the department. Monitoring after public notification in addition to the minimum sampling required in WAC 248-54-165 shall be as required by the department.))

(6) Corrosivity. ((a) When an MCL is exceeded, the purveyor shall notify the department and complete an evaluation of the situation and establish a correction program acceptable to the department. If daily check sampling confirms an MCL violation, the purveyor shall also notify the public according to the procedures outlined in WAC 248-54-255.

((b)) When a comparison of the byproduct ((parameter)) level shows a substantial ((increases)) increase from source to distribution system ((and the primary parameter MCL has not been exceeded)), the purveyor shall take action as directed by the department.

(7) ((Pesticides:

When any organic chemical contaminant exceeds the MCL or maximum allowable level, the purveyor shall notify the department within forty-eight hours. The purveyor shall determine the cause of the contamination and take necessary corrective actions as required. Public notification shall be required by the department.

((8) Radionuclides:

(a) When the average annual MCL for gross alpha particle activity or total radium is exceeded, the purveyor shall notify the department within forty-eight hours and notify the public according to the procedures listed in WAC 248-54-255. The purveyor shall determine the cause of the contamination and take corrective action as required by the department. Additional monitoring shall be as required by the department.

((b)) When the average annual MCL for man-made radioactivity is exceeded, the purveyor shall notify the department and notify the public according to the procedures outlined in WAC 248-54-255. The purveyor shall determine the cause of the contamination and take corrective action as required by the department. Additional monitoring shall be as required by the department.

((9))) Follow-up action shall be determined by the department when the ((maximum allowable level)) MCL for any additional ((parameter)) substance is exceeded.

NEW SECTION

WAC 248-54-194 OPERATOR CERTIFICATION. A certified operator is required per chapter 70-119 RCW and chapter 248-55 WAC for the following public water systems:

- (1) Those serving one hundred services or more; and
- (2) Those serving twenty-five or more persons year-round which are supplied by a surface water source and are required to filter.

NEW SECTION

WAC 248-54-196 SMALL WATER SYSTEM MANAGEMENT PROGRAM. (1) The purpose of a small water system management program is to assure the water system:

- (a) Is properly and reliably managed and operated, and
- (b) Continues to exist as a functional and viable entity.
- (2) A water system management program shall be developed and implemented for all systems not required to complete a water system plan as described in WAC 248-54-065.
- (3) The department shall have the authority to require submission of this program for review and comment when:

- (a) A new water system is proposed;
- (b) A new project is proposed for an existing system;
- (c) An existing system has problems associated with inadequate or improper management or operations;
- (d) Requested by the department for an existing system not having approved engineering documents, such as, or similar to, those described in WAC 248-54-086 and 248-54-096; and
- (e) There is a change in ownership of the system.

(4) A department guideline titled Planning Handbook is available to assist the purveyor in establishing the level of detail and content of the management program. Content and detail shall be consistent with the size, complexity, past performance, and use of the public water system. General content topics shall include, but not be limited to, the following elements:

- (a) Ownership and decision-making issues,
- (b) Financing, and
- (c) Operations.

(5) The department may require changes be made to a water system management program if necessary to effectively accomplish the program's purpose.

NEW SECTION

WAC 248-54-201 RELIABILITY. (1) Any proposed public water system facility or expansion or modification of an existing system shall provide an adequate quantity and quality of water in a reliable manner at all times.

(a) In determining whether a proposed public water system or an expansion or modification of an existing system is capable of providing an adequate quantity of water, the department shall consider the immediate as well as the reasonably anticipated future needs of the system's consumers.

(b) In determining whether an existing public water system is providing an adequate quantity of water, the department shall consider the needs of the system's existing consumers exclusively, unless, in the department's discretion, consideration of the needs of potential consumers is in the public interest.

(2) The system shall be constructed, operated, and maintained to protect against failures of the power supply, treatment process, equipment, or structure with appropriate back-up facilities. Security measures shall be employed to assure the water source, water treatment processes, water storage facilities, and the distribution system are under the strict control of the purveyor.

(3) Where fire flow is required, a positive pressure at the water meter or property line shall be maintained throughout the system under fire flow conditions.

(4) Water pressure at the customer's service meter or property line if a meter is not used shall be maintained at the approved design pressure under MID conditions. In no case shall the pressure be less than twenty psi under MID conditions.

(5) Water use restrictions as a designed operation practice shall not be allowed. However, water use restrictions may be allowed in times of drought.

(6) No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.

(7) Every purveyor shall maintain twenty-four hour phone availability and shall respond to customer concerns and service complaints in a timely manner.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)**WAC 248-54-205 CONTINUITY OF SERVICE.**

(1) ((A public water system facility shall be designed to provide an adequate quantity and quality of water in a reliable manner at all times. The system shall be constructed, operated, and maintained to protect against failures of the power supply, treatment process, equipment, or structural failure, with appropriate backup facilities. Security measures shall be employed to assure the water source, water treatment process, water storage facilities, and the distribution system are under the strict control of the purveyor.

(2) Where applicable, fire flow as established in WAC 248-57-500 shall be maintained.

(3) A public water system shall have an emergency response plan as part of the operations program as required in WAC 248-54-195. The emergency response plan shall include:

(a) General procedures for routine or major emergencies within the water system; and

(b) A vulnerability analysis and a contingency plan for facilities becoming inoperable in a major emergency.

The emergency plan shall be reviewed and updated as necessary (at least each time the water system plan is updated) to assure adequate emergency response. The emergency plan shall be maintained in such a manner as to be readily usable by personnel of the public water system responsible for responding to emergencies.

(4) The department and customers shall be notified immediately when a breakdown or failure of public

~~health significance occurs in the water treatment process, when an emergency arises causing or threatens to cause, a loss in water service for more than twenty-four hours, or when any other situation occurs where the water quality may be degraded and public health may be threatened.~~

(5) No intake or other connection shall be maintained between a public water system and a source of water not approved by the department, unless an emergency connection has been approved by the department. Utilization of such emergency sources shall be in accordance with precautions specified by the department.

((6))) No purveyor shall transfer system ownership without providing written notice to the department and all customers. Such notice shall be provided at least one year prior to the transfer, unless the new ((ownership)) owner agrees to an earlier date. Notification shall include a time schedule for transferring responsibilities, identification of the new owner, and under what authority the new ownership will operate. If the system is a corporation, identification of the registered agent shall also be provided.

((7))) (2) It ((will)) shall be the responsibility of the utility transferring ownership to ensure all health-related standards pursuant to chapter 248-54 WAC are met during transfer of the utility. It ((is)) shall also be the responsibility of the utility transferring ownership to inform and train the new ((ownership)) owner regarding operation of the utility.

((8))) (3) No purveyor shall end utility operations without providing written notice to all customers and the department at least one year prior to termination of service.

((9))) (4) Where this section may be in conflict with existing state statutes, the ((appropriate)) more stringent statute ((will)) shall prevail.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-215 TREATMENT FACILITY OPERATION. (1) ((No)) A bypass ((may)) shall neither be established ((or)) nor maintained ((whereby)) to divert water ((may be diverted)) around any feature of a treatment process ((of a public water supply)), except with the approval of the department.

(2) The water purveyor may allow treatment by other organizations or individuals only in a manner approved by the department ((in consultation with the purveyor and the local health agency)).

(3) When chlorine is used ((as the disinfecting agent,)) on a ground water source for disinfection or as otherwise directed by the department, and ((where)) the pH does not exceed 8.0, the purveyor shall maintain a minimum free chlorine residual of 0.2 milligrams per liter (mg/L) ((shall be maintained)) in all active parts of the distribution system. ((A)) The minimum contact time ((of)) provided before the first customer shall be:

(a) Thirty minutes ((with a)) if 0.2 mg/L free chlorine residual is maintained, or

(b) Ten minutes ((with a)) if 0.6 mg/L free chlorine residual ((shall be provided ahead of the first point of

domestic use at peak flow conditions, except as otherwise approved by the department)) is maintained.

(4) The department may require the purveyor to provide longer contact times, higher chlorine residuals, or additional treatment ((may be required)) for the following sources ((more susceptible to contamination, such as)):

- (a) Surface water,
- (b) Shallow wells ((and)),
- (c) Springs,
- (d) Infiltration galleries, ((and for sources))
- (e) Those with ((quality factors, such as pH and)) high turbidity ((which may interfere)),
- (f) Those with ((disinfection efficiency)) high pH, and
- (g) Other sources particularly susceptible to contamination as identified by the department.

((4))) (5) All water purveyors ((practicing)) using chlorination shall monitor chlorine residual at ((a)) representative ((number of)) points in the system on ((at least)) a daily basis or as approved by the department. The ((analysis)) analyses shall be conducted ((in accordance with)) per the most recently published edition of Standard Methods for the Examination of Water and Waste Water. Reports shall be sent to the department, ((on forms provided by)) in a format acceptable to the department, within ten days of the end of the reporting month. In order to assure adequate monitoring of chlorine residual, the department may require the use of continuous chlorine residual analyzers and recorders.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-225 WATERSHED CONTROL.

(1) All public water systems utilizing surface water shall adequately exercise surveillance over conditions affecting source water quality.

(2) Those public water systems using unfiltered surface waters shall, in addition to subsection (1) of this section, document a watershed control program. All facilities and activities in the watershed affecting public health shall be under the surveillance of the water purveyor and shall be satisfactorily limited and controlled so as to preclude degradation of the physical, chemical, microbiological, viral, and radiological quality of the source of supply.

(3) Those public water systems using unfiltered surface water shall submit to the department for approval a report identifying all conditions, activities, and facilities within the watershed, together with an acceptable program for necessary surveillance, limitation, and control. This report shall be part of the water system plan required in WAC 248-54-065, included in ((an operations)) a small water system management program as required in WAC ((248-54-195)) 248-54-196, or prepared independently for those systems not required to have such a plan. A section in the department guideline titled Planning Handbook deals with watershed control

and is available to assist utilities in adequately addressing the following basic elements:

- (a) Watershed description,
- (b) Watershed control,
- (c) System operation, and
- (d) Water quality trends.

The report shall be ((reviewed;)) updated as ((necessary, and submitted to)) needed or required by the department ((annually)).

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-235 FLUORIDATION OF DRINKING WATER. (1) Where fluoridation is practiced, the concentration of fluoride shall be maintained in the range 0.8 through 1.3 mg/L. Determination of fluoride concentration shall be made daily, and reports of such analyses shall be submitted to the department, ((on forms provided by)) in a format acceptable to the department, within ten days of the end of the reporting month. Such analyses shall be made in accordance with procedures listed in the most recently published edition of Standard Methods for the Examination of Water and Waste Water.

(2) Monthly check samples shall be taken downstream, at the first sample tap where adequate mixing has taken place, from each fluoride injection point. These samples should be taken at the same place and time as the routine daily check samples. The samples ((shall then be submitted for testing)) along with a completed form shall be sent to the state public health laboratory, or a laboratory certified by the state, to test fluoride. A comparison of the results should then be made between samples analyzed in the field and the appropriate monthly check sample to assure the results are equivalent and field equipment is operating properly. An increased sampling schedule may be applied by the department if necessary to assure the adequacy and consistency of fluoridation.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-255 PUBLIC NOTIFICATION. (1) ((Class 1 or 2 water purveyors shall issue a notice to the permanent residences served by the system and send a copy of the notice or a written explanation of how the system users were notified, to the department within thirty days of the occurrence of any of the following events: Exceeding a maximum contaminant level, failure to comply with an applicable testing procedure or failure to perform any required monitoring. The water purveyor shall take the following steps to notify the water users:)) Responsibility. It shall be the duty and responsibility of the purveyor to issue a notice to the permanent residences served by the water system and send a copy of the notice or a written explanation of how the system users were notified to the department within thirty days of any of the following:

(a) When any applicable primary MCL has been exceeded as per WAC 248-54-175,

(b) Failure to comply with an applicable testing procedure,

(c) Failure to comply with any treatment technique having been prescribed, and

(d) Failure to do the prescribed monitoring as required.

(2) Content.

(a) Public notices issued per this section shall be written in a manner designed to fully inform the users of the water system of the reasons for the notice.

(b) The notice shall:

- (i) Be conspicuous;
- (ii) Disclose all material facts regarding the subject;
- (iii) Disclose the nature of the problem;
- (iv) When appropriate, provide a clear statement showing a primary MCL has been exceeded; and
- (v) When appropriate, describe any preventive measures to be taken by the consumers.

(c) The public notice shall not:

- (i) Use unduly technical language,
- (ii) Use unduly small print, or
- (iii) Use any other methods frustrating the purpose of the notice.

(d) The public notice may include:

- (i) A balanced explanation of the seriousness to the public health,
- (ii) A fair explanation of steps taken by the system to correct any problem, and
- (iii) The results of any additional sampling.

(3) Frequency and distribution.

(a) The purveyor shall publish a notice on three or more consecutive days in a newspaper of general circulation in the area served by the system. This notice shall be run within fourteen days of the violation.

(b) If the area served by a class 1 or 2 system is not served by a daily newspaper of general circulation, notification shall be published in a weekly newspaper of general circulation serving the area on three consecutive weeks.

(c) If no weekly or daily newspaper of general circulation serves the area, notices shall be posted in post offices or other buildings within the system's service area.

(d) In addition to or in lieu of subsection ((1)) (3)(a), (b), or (c) of this section, the users may be individually notified in writing, by telephone or in person, except that when a maximum contaminant level is exceeded the users must be notified by direct mail.

((2)) (4) If any of the events identified in subsection (1) of this section occur in any system serving a transitory population, the ((water)) purveyor shall post written notice of the violation at conspicuous locations and points of use throughout the system.

((3)) Notices given to comply with this section shall be issued in a manner to assure the public using the system is adequately informed of the violation or system failure. The notice shall be easily understood. It shall disclose all material facts regarding the subject including the nature of the problem and, when appropriate, a clear statement that a primary drinking water regulation has been violated and any preventive measures to be taken by the public. Where appropriate or where designated by the department, bilingual notice shall be given. Notices

~~may include a balanced explanation of the significance or seriousness to the public health of the subject of the notice, a fair explanation of steps taken by the system to correct any problem and the results of additional sampling. Notices shall be consistent with guidelines prepared by the department concerning format and content.~~

~~((4)) (5) The purveyor shall notify customers and the department as soon as practical but no later than forty-eight hours after either of the following occurs:~~

~~(a) An emergency arises causing or threatening to cause a loss in water service for more than twenty-four hours; or~~

~~(b) When any situation occurs where the water quality may be degraded and public health may be threatened.~~

~~(6) When circumstances dictate a broader and/or more immediate notice be given to protect public health, the department may require notification by whatever means necessary.~~

~~((5)) (7) Notice to the ((public)) water system users required by this section may be given by the department on behalf of the ((water)) purveyor.~~

~~((6)) (8) When ((parameters)) substances do not exceed ((a maximum contaminant level)) an MCL, but have levels of health significance, the department may require the purveyor to notify the ((public)) water system users.~~

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-265 ANALYSES AND RECORDS, REPORTING. (1) The ((water)) purveyor shall keep the following records of operation and water quality analyses:

(a) Records of bacteriological and turbidity analyses shall be kept for five years. Records of chemical analyses shall be kept for ((ten years)) as long as the system is in operation. Other records of operation and analyses required by the department shall be kept for three years. ((These)) All records shall ((be completed on forms supplied by the department and shall)) bear the signature of the operator in responsible charge of the water system or his or her representative. Class 1 and 2 systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or drinking water sample, or other special purpose sample;

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical technique/method used; and

(vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water regulations and copies of public notifications shall be kept for three years

after the last action taken with respect to the particular violation involved.

(c) Copies of any written reports, summaries, or communications, relating to sanitary surveys of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the sanitary survey involved.

(d) Where applicable, daily records of operation and analyses shall include the following:

(i) Chlorine residual;

(ii) Fluoride level;

(iii) Water treatment plant performance((;)) including, but not limited to:

(A) Type of chemicals used and quantity,

(B) Amount of water treated, and

(C) Results of analyses.

(iv) Turbidity; and

(v) Other ((techniques)) information as specified by the department.

(2) Reporting.

(a) Except where a shorter reporting period is specified, the ((water)) purveyor shall report monthly to the department. Reports shall be submitted prior to the tenth of the following month and include all tests, measurements, or analyses.

(b) ((The water purveyor shall report to the department within forty-eight hours the failure to comply with monitoring requirements, as provided in WAC 248-54-165.

(c) The water purveyor shall notify the department within thirty days of any change in name, ownership, or responsibility for management of the public water system:

(d) Water facilities inventory and report form (WFI).

(i) Every class 1 and 2 purveyor ((of a class 1 and 2 water system)) shall submit ((to the department an updated)) an annual WFI ((report annually)) update to the department.

(ii) Purveyors of class 3 and 4 water systems shall submit ((a)) an updated WFI ((report)) to the department ((every three years)) as requested.

((e)) Public water systems using an unfiltered surface water source shall submit an annual report summarizing the watershed control program and activities within the watershed during the previous year pursuant to WAC 248-54-225)) (iii) The purveyor shall submit an updated WFI to the department within thirty days of any change in name, class, ownership, or responsibility for management of the water system.

AMENDATORY SECTION (Amending Order 266, filed 9/8/83)

WAC 248-54-285 CROSS-CONNECTION CONTROL. (1) ((Administration)) General.

(a) ((A cross-connection control program is required as part of the operations program outlined in WAC 248-54-195)) Cross-connections which can be eliminated shall be eliminated. The purveyor shall work cooperatively with local authorities to eliminate or control potential cross-connections.

(b) The purveyor shall develop a cross-connection control program. The scope and complexity of the program shall be directly related to the size of the system and the potential public health risk. A department guideline titled Planning Handbook is available to assist the utility in developing this program. The cross-connection control program shall be included in the water system's plan per WAC 248-54-065 or small water system management program as outlined in WAC 248-54-196, whichever is appropriate.

(c) The purpose of a cross-connection control program is to protect the health of water consumers and the potability of the public water system by assuring:

(i) The inspection and regulation of plumbing in existing and proposed piping networks; and

(ii) The proper installation and surveillance of backflow prevention ((devices)) assemblies when actual or potential cross-connections exist and cannot be eliminated.

((c) It shall be the primary responsibility of the water purveyor to work cooperatively with local authorities to eliminate or control potential cross-connections.))

(d) The ((water)) purveyor shall develop and document enforcement authority and operating policies in a manner acceptable to the department. The ((current)) most recently published edition of the manual titled Accepted Procedure and Practice in Cross((=)) Connection Control ((Manual)) – Pacific Northwest Section – American Waterworks Association, shall be used as a resource to establish:

(i) Minimum cross-connection control operating policies,

(ii) Backflow prevention assembly installation practices, and

(iii) Backflow prevention assembly testing procedures.

((Water)) Purveyors and local authorities shall have the option of establishing more stringent requirements.

(e) ((If)) When an ((immediate hazard to health is caused by a)) existing cross-connection((, then)) poses a potential health or system hazard, the ((water)) purveyor shall ((discontinue)) shut off water service to the premises ((impacted by the cross-connection))) until ((it is verified)) the cross-connection has been eliminated or controlled by the installation of a proper backflow prevention assembly. The cross-connection control program manager for the department shall be notified when a service has been shut off.

(2) Backflow prevention ((device)) assembly installation and testing.

(a) If a cross-connection cannot be eliminated, then ((a backflow device shall be required)):

(i) An air-gap separation ((or)), reduced pressure principle ((device)) backflow prevention assembly (RPBA) or a reduced pressure principle detector backflow prevention assembly (RPDA) shall be installed if the cross-connection creates an actual or potential health or system hazard.

(ii) An air-gap separation, ((reduced pressure principle backflow prevention device)) RPBA, RPDA, double-check valve backflow prevention assembly (DCVA), or

double-check ((valve)) detector backflow prevention assembly (DCDA) shall be installed if the cross-connection is objectionable, but not hazardous to health.

(iii) A pressure vacuum breaker assembly (PVBA) or an atmospheric vacuum breaker may be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of backpressure in the downstream piping.

(iv) Air gaps or appropriate backflow prevention ((devices)) assemblies shall be installed at the service connection or within the following facilities, unless in the judgment of the water purveyor and the department, no hazard exists: Hospitals, mortuaries, clinics, laboratories, piers and docks, sewage treatment plants, food and beverage processing plants, chemical plants using water process, metal plating industries, petroleum processing or storage plants, radioactive material processing plants or nuclear reactors, car washes, facilities having ((an)) a nonpotable auxiliary water supply, and others specified by the department.

(b) All ((reduced pressure principle backflow prevention devices and double check valve assemblies installed)) RPBA's, RPDA's, DCVA's, DCDA's, and PVBA's shall be ((a model)) models approved by the department. The department shall publish and maintain a list of approved ((devices)) assemblies.

(c) All ((reduced pressure principle)) air gaps and backflow prevention ((devices and double check valve)) assemblies shall be ((inspected and tested by a certified backflow device tester or)) installed in accordance with the cross-connection control ((specialist)) manual referenced in WAC 248-54-285 (1)(d) of this section.

(d) The purveyor may permit the substitution of a properly installed air gap in lieu of an approved backflow prevention assembly. All such air gap substitutions shall be inspected annually by a Washington state certified backflow assembly tester.

(e) A Washington state certified backflow assembly tester shall inspect and test all:

(i) RPBA's,

(ii) RPDA's,

(iii) DCVA's,

(iv) DCDA's,

(v) New PVBA installations, and

(vi) Existing PVBA's as they are discovered through routine inspections.

(f) Tests and/or inspections shall be conducted:

(i) At the time of initial installation, ((and))

(ii) Annually after initial installation, or more frequently if tests indicate repeated failures, and

(iii) After the ((device)) assembly is repaired((, and))

(iii) Annually thereafter, and/or

(iv) More often when tests indicate repeated failures)).

((fd))) (g) The ((devices)) assemblies shall be repaired, overhauled, or replaced whenever found to be defective. The purveyor shall require that improperly installed or altered air gaps be replumbed or replaced by an approved RPBA at their discretion. Inspections, tests,

and repairs shall be made under the purveyor's supervision and records thereof kept as required by the purveyor.

((t) Failure of the customer) (h) The purveyor shall deny or discontinue water service to any customer failing to cooperate in the installation, maintenance, testing, or inspection of backflow prevention ((devices)) assemblies required by these regulations ((shall be grounds for the termination of water service to the premises or the requirements for an air-gap separation)).

(3) Washington state certified backflow assembly testers.

(a) A backflow assembly tester shall become certified and maintain their certification per department backflow assembly tester certification program guidelines.

(b) The department shall maintain a list of persons certified to test backflow prevention assemblies.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 248-54-291 SEVERABILITY. If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 248-54-085 ENGINEERING REPORT.
WAC 248-54-095 PLANS AND

SPECIFICATIONS.

WAC 248-54-115 LOCATION.
WAC 248-54-195 GENERAL OPERATIONS

PROGRAM.

WAC 248-54-275 SANITARY SURVEY.

WSR 88-06-001

ADOPTED RULES

DEPARTMENT OF PERSONNEL (Personnel Board)

[Order 295—Filed February 19, 1988—Eff. April 1, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to:

Amd WAC 356-30-260 Probationary period—Provisions—Status of employee.

Amd WAC 356-30-305 Trial service period—Provision.

This action is taken pursuant to Notice No. WSR 88-03-039 filed with the code reviser on January 19, 1988. These rules shall take effect at a later date, such date being April 1, 1988.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 11, 1988.

By Leonard Nord
Secretary

AMENDATORY SECTION (Amending Order 175, filed 9/22/82)

WAC 356-30-260 PROBATIONARY PERIOD—PROVISIONS—STATUS OF EMPLOYEE. (1) Employees who receive appointments to permanent positions from the open competitive register and the reemployment register shall serve a probationary period of six to twelve months as determined by the personnel board. The personnel board shall designate a probationary period of six months for all positions in a class unless they determine that job requirements of the class require a longer period (up to twelve months) to provide adequate training and/or evaluation. The personnel board shall apply the following criteria for approving probationary periods of longer than six months:

(a) The work of the majority of the positions in the class is of such a nature that performance of the full range of duties cannot be properly evaluated within six months after an appointment.

OR

(b) Work of the class is cyclical in nature and the workload cycle cannot be completed within six months after an appointment.

OR

(c) Work is of such a nature that extended formalized training is required prior to the full assumption of duties.

All positions in a class shall have the same probationary period.

(2) All persons at time of appointment shall be notified in writing by the agency of the length of their probationary period. When the probationary period for a class is increased beyond six months, the increased probationary period shall apply only to persons appointed after the effective date of the change.

(3) The probationary period will provide the appointing authority with the opportunity to observe a new employee's work, to train and aid the new employee in adjustment to the position, and to terminate any employee whose work performance fails to meet the required standards.

(4) Employees who, during their probationary period, go on leave without pay shall have their probationary period extended by the number of calendar days they are on leave without pay including any intervening non-working days.

(5) Employees shall have their probationary period extended by the number of calendar days in excess of 30 in which the employee is not at work including any intervening non-work days if:

(a) Work is missed due to sick leave, vacation leave, military training leave or miscellaneous leave; or

(b) Work is missed by employees of the departments of social and health services, corrections or veterans affairs due to an assault that occurred on the job and who are receiving compensation in an amount equal to full pay, as provided in 72.01 RCW and 72.09 RCW; or

(c) Work is missed due to any combination of leave identified in (5)(a) and (5)(b) of this section which when added together exceeds 30 calendar days.

(6) Work missed during the probationary period due to holidays shall be counted as part of the required probationary period.

((4)) (7) Permanent appointment of a probationary employee shall be automatic unless the person is dismissed under provision of WAC 356-30-270.

((5)) (8) Veterans and their widows who have not remarried and are in probationary status will be granted seniority preference only within ranks of probationary employees and will not be granted preference within the ranks of the permanent employees until they acquire permanent status.

AMENDATORY SECTION (Amending Order 204, filed 5/23/84, effective 9/1/84)

WAC 356-30-305 TRIAL SERVICE PERIOD—PROVISION. (1) Employees appointed from a voluntary demotion register to a class not previously held, a promotional register, or from the inter-system employment register shall serve a trial service period of six months. The trial service period will provide the appointing authority with the opportunity to observe the employee's work and to train and aid the employee in adjustment to the position, and to revert such an employee whose work performance fails to meet required standards. Reversions shall be under the provisions of WAC 356-30-320.

(2) Employees who during their trial service period go on leave without pay shall have their trial service period extended by the number of calendar days they are on leave without pay, including any intervening non-working days.

(3) Employees shall have their trial service period extended by the number of calendar days in excess of 30 in which the employee is not at work, including any intervening non-work days, if:

(a) Work is missed due to sick leave, vacation leave, military training leave or miscellaneous leave; or

(b) Work is missed by employees of the departments of social and health services, corrections or veterans affairs due to an assault that occurred on the job and who are receiving compensation in an amount equal to full pay, as provided in 72.01 RCW and 72.09 RCW; or

(c) Work is missed due to any combination of leave identified in (3)(a) and (3)(b) of this section which when added together exceed 30 calendar days.

(4) Work missed during the trial service period due to holidays shall be counted as part of the required trial service period.

((2))) (5) When an employee is appointed to a higher class while serving in a trial service period, the trial service period for the lower class and the new trial service period for the higher class shall overlap provided that the higher and lower classes are in the same or a closely related field. The employee shall complete the terms of the original trial service period and be given permanent status in the lower class. Such employees will also be granted the rights normally accruing to trial service for the remainder of the trial service period in the higher class.

**WSR 88-06-002
ADOPTED RULES
STATE BOARD OF EDUCATION**
[Order 6-88—Filed February 19, 1988]

Be it resolved by the State Board of Education, acting at the Westwater Inn, Olympia, Washington, that it does adopt the annexed rules relating to Grant program—Schools for the twenty-first century, chapter 180-110 WAC.

This action is taken pursuant to Notice No. WSR 88-01-079 filed with the code reviser on December 21, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.100-.054 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 29, 1988.

By Monica Schmidt
Secretary

**Chapter 180-110 WAC
GRANT PROGRAM—SCHOOLS FOR THE
TWENTY-FIRST CENTURY**

WAC

180-110-010	Authority.
180-110-015	Purpose.
180-110-017	Public policy statement.
180-110-020	Pilot project—Definition.
180-110-030	Delivery of applications—Deadlines—Modifications.
180-110-035	Application contents.
180-110-040	Information and recommendations to be submitted to the state board of education.
180-110-045	Considerations respecting the approval of pilot projects.

180-110-050	Standards for the modification or waiver of the state board of education rules.
180-110-052	Waiver of state statutes.
180-110-053	Waiver of federal rules.
180-110-055	Pilot project monitoring.
180-110-060	Annual school district reports.
180-110-065	Duration and termination of pilot project approval.

NEW SECTION

WAC 180-110-010 AUTHORITY. The authority for this chapter is RCW 28A.100.054.

NEW SECTION

WAC 180-110-015 PURPOSE. The purpose of this chapter is to establish policies and procedures implementing the schools for the twenty-first century pilot projects program. See also the rules of the superintendent of public instruction respecting the program in chapter 392-310 WAC.

NEW SECTION

WAC 180-110-017 PUBLIC POLICY STATEMENT. The public policy of the schools for the twenty-first century pilot projects program enunciated by the legislature is as follows:

(1) A schools for the twenty-first century pilot program is established to foster change in the state common school system. The program will enable educators and parents of selected schools or school districts to restructure certain school operations and to develop model school programs which will improve student performance. The program shall include an evaluation of the projects and be accountable for student progress. The purpose of the program is to determine whether increasing local decision-making authority will produce more effective learning.

(2) The legislature intends to encourage educational creativity, professionalism, and initiative by:

(a) Providing schools an opportunity to develop new methods and procedures, through the temporary waiver of certain state statutes or administrative rules; and

(b) Providing selected public schools or school districts with the technology, services, and staff essential to enhance learning.

NEW SECTION

WAC 180-110-020 PILOT PROJECT—DEFINITION. The term "pilot project" as used in this chapter means a program which encompasses part or all of one or more schools in one or more school districts and is designed to effect the public policy purposes of this chapter.

NEW SECTION

WAC 180-110-030 DELIVERY OF APPLICATIONS—DEADLINES—MODIFICATIONS. The acceptance of school district applications for pilot project

approval and state funding shall be governed by the following requirements respecting the time and place of receipt:

(1) Applications shall be received at the office of the State Board of Education, Old Capitol Building, Room 253, Olympia, Washington, Mailstop FG-11, 98504.

(2) Applications respecting the initial pilot projects commencing during the 1988-89 school year shall be received no later than 5:00 p.m., March 31, 1988: PROVIDED, That in the event the legislature amends chapter 525, Laws of 1987 to permit the submission and acceptance of applications at a later date, said applications shall be received no later than 5:00 p.m., April 27, 1988.

(3) Applications respecting additional pilot projects commencing during the 1990-91 school year or a subsequent school year shall be received no later than 5:00 p.m., November 1 of the calendar year immediately preceding the school year of proposed implementation—e.g., by 5:00 p.m., November 1, 1989, for projects commencing during the 1990-91 school year.

(4) No application, portion of an application, or modification of an application received after the time and date established by this section shall be considered for purposes of approval and funding.

(5) Notwithstanding subsection (4) of this section, the state board of education reserves the right to accept and approve applications for the modification of a previously approved pilot project.

NEW SECTION

WAC 180-110-035 APPLICATION CONTENTS. Applications for pilot project approval and state funding shall comply with each of the following content requirements:

(1) Project activities and objectives. The application shall specify and explain each of the following:

(a) The activities to be carried out as part of the pilot project, including the nature and extent of proposed changes in, or the restructuring of, existing school operations.

(b) The nature of the improvement in student performance sought to be achieved.

(2) Technical resources. The application shall identify the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, or consultants available to provide such services.

(3) Budget plan. The application shall contain a budget plan for the pilot project and additional anticipated sources of funding, including private grants and contributions, if any.

(4) Staff incentive pay system. The application shall identify a staff incentive pay system. Implementation of the staff incentive pay system is not required.

(5) Evaluation and accountability processes. The application shall specify and explain the evaluation and accountability processes to be used to measure pilot project-wide performance, including student performance. The processes shall include features designed to provide information capable of establishing the nature and the extent of any improvement in student performance attributable to the pilot project.

(6) Collective bargaining contract modifications. The application shall include a written statement that the school directors and the local bargaining agents will modify those portions of their local agreements as applicable for the pilot project.

(7) Modification or waiver of school district rules. The application shall include a written statement that school directors and administrators are willing to exempt the pilot project from specifically identified local rules, as needed.

(8) Modification or waiver of state rules. If the application requests the modification or waiver of a rule of either the state board of education or the superintendent of public instruction, the application shall include each of the following:

(a) Identification of the state board of education or superintendent of public instruction rule relating to the length of the school year, teacher contact hour requirements, program hour offerings, student to teacher ratios, salary lid compliance requirements, the commingling of funds appropriated by the legislature on a categorical basis, or another subject matter which the school district requests be modified or waived.

(b) The reason or reasons the school district believes the requested modification or waiver is warranted.

(9) Supplemental contracts for project related instructional employees. The application shall provide for the employment of one or more certificated school building staff, and classified school building staff, whose primary duties consist of the daily educational instruction of students, pursuant to a supplemental contract that provides for each of the following:

(a) No less than ten additional days above and beyond the minimum one hundred and eighty day school year.

(b) Services or staff development, or both, in support of the pilot project.

(c) Additional compensation for such additional services and staff development funded with moneys made available pursuant to this chapter.

(10) Assurances of cooperation and support. The application shall contain each of the following types of assurances of cooperation and support:

(a) Written statements from the board of directors of the school district, the district superintendent, the principals, and the instructional staff involved in the pilot project that they have worked cooperatively in developing the application, they support the pilot project, and they will work cooperatively during the term of the pilot project.

(b) Written statements of support, willingness to participate, or concerns from any interested parent, business, or community organization.

(11) Summary or abstract. The application shall contain a one page abstract of the nature and objectives of the pilot project.

(12) Duration of pilot project. The application shall specify the school years, not exceeding six school years, for which approval and funding is requested.

NEW SECTION

WAC 180-110-040 INFORMATION AND RECOMMENDATIONS TO BE SUBMITTED TO THE

STATE BOARD OF EDUCATION. Applications for pilot projects submitted pursuant to this chapter shall be selected by the state board of education for approval and funding based upon information and recommendations provided through the governor's task force and the superintendent of public instruction including, but not limited to, the following:

(1) The abstracts of the nature and objectives of pilot projects submitted by school districts.

(2) A summary of each of the following:

(a) The applications which do and do not meet the content requirements set forth in WAC 180-110-035.

(b) The appropriateness of the state rule modifications or waivers requested.

(c) The sufficiency of the evaluation and accountability processes proposed.

(3) The recommendations of the governor's task force, together with an explanation sufficient in scope to enable the state board of education to understand why certain pilot project applications have been recommended for approval and why the remaining applications have not been recommended for approval.

NEW SECTION

WAC 180-110-045 CONSIDERATIONS RESPECTING THE APPROVAL OF PILOT PROJECTS. Pilot project applications shall be evaluated and recommended for approval by the governor's task force, and approved by the state board of education, taking into account considerations which include, but are not necessarily limited to, each of the following:

(1) The manner and extent to which an application addresses each of the content requirements set forth in WAC 180-110-035.

(2) Evidence of thoroughness in identifying, developing, and projecting implementation of pilot project activities.

(3) Reflection of a balance among elementary, junior high or middle schools, and high schools.

(4) Reflection of a balance among geographical areas of the state, school characteristics, and school sizes, insofar as reasonably possible.

NEW SECTION

WAC 180-110-050 STANDARDS FOR THE MODIFICATION OR WAIVER OF THE STATE BOARD OF EDUCATION RULES. The state board of education shall grant a request for the modification or waiver of a state board of education rule which the state board of education determines meets each of the following standards:

(1) The rule does not deal with public health, safety, or civil rights.

(2) The school district has presented satisfactory reasons for the modification or waiver of the rule.

NEW SECTION

WAC 180-110-052 WAIVER OF STATE STATUTES. Statutory provisions that correspond to state administrative rule provisions which are modified or waived

at the request of a school district pursuant to this chapter shall also be deemed to have been modified or waived to the same extent.

NEW SECTION

WAC 180-110-053 WAIVER OF FEDERAL RULES. A school district may request the state board of education or the superintendent of public instruction to ask the United States Department of Education or another federal agency to modify or waive federal rules to the extent necessary to fully implement a pilot project. Such requests shall include an explanation of the school district's justification for a rule modification or waiver, and shall be forwarded to the appropriate federal agency by the state board of education or the superintendent of public instruction.

NEW SECTION

WAC 180-110-055 PILOT PROJECT MONITORING. It shall be the responsibility of the superintendent of public instruction to monitor the implementation of approved pilot projects. Monitoring activities shall include, but not necessarily be limited to, the following activities:

(1) Maintaining contact with school districts pursuant to site visitations and otherwise in order to keep abreast of the implementation of pilot projects.

(2) Providing, and coordinating the provision by others of, technical assistance and resources in support of pilot projects with such assistance as the governor's task force may provide.

(3) Development of a process for facilitating and co-ordinating linkages among school districts operating pilot projects and colleges and universities, taking into consideration recommendations of the governor's task force, and implementation of the process.

(4) Collecting information and reports from school districts operating pilot projects.

(5) Reporting and transmitting observations, recommendations, and school district reports to the state board of education and the governor's task force.

NEW SECTION

WAC 180-110-060 ANNUAL SCHOOL DISTRICT REPORTS. Each school district operating an approved pilot project shall submit an annual report to the superintendent of public instruction which sets forth the school district's evaluation of pilot project progress, inclusive of pertinent data respecting the nature and extent of any improvements in student performance.

NEW SECTION

WAC 180-110-065 DURATION AND TERMINATION OF PILOT PROJECT APPROVAL. The duration and termination of pilot project approval shall be governed by the following terms, conditions, and procedures:

(1) The approval of a pilot project constitutes approval for the state funding, the purposes, and the period

specified by the state board of education, subject to each of the following conditions:

(a) The appropriation by the legislature of sufficient state funds for pilot project purposes.

(b) A school district's continuing compliance with the terms of the district's application and the annual reporting requirements of this chapter.

(c) Satisfactory periodic evaluations.

(2) Approval of a pilot project may be modified or terminated for funding purposes due to the absence of sufficient state funding with or without notice to the affected school district or districts: PROVIDED, That insofar as practicable, no pilot project shall be selected for purposes of modifying or terminating approved state funding without first soliciting the recommendations of the governor's task force and advising the school district of the modification in, or termination of, state funding.

(3) Approval of a pilot project may be modified or terminated for funding purposes due to unsatisfactory evaluation results or a school district's failure to comply with the terms of the district's application or the annual reporting requirements of this chapter: PROVIDED, That any such modification or termination shall be preceded by an opportunity for the school district to present its case to the state board of education for project continuation, and by the solicitation of the recommendations of the governor's task force.

WSR 88-06-003

NOTICE OF PUBLIC MEETINGS

OIL AND GAS

CONSERVATION COMMITTEE

[Memorandum—February 19, 1988]

March 8, 1988, 10:00 a.m., Energy Facility Site Evaluation Council (EFSEC) Conference Room, 4224 6th Avenue S.E., Lacey, WA, Rowesix, Building 1.

WSR 88-06-004

NOTICE OF PUBLIC MEETINGS

SEATTLE COMMUNITY COLLEGES

[Memorandum—February 18, 1988]

The Seattle Community College board of trustees will hold a dinner meeting with the South Seattle Community College Foundation board of directors at 5:00 p.m. on Tuesday, March 1, 1988, in the Rainier Room at South Seattle Community College, 6000 16th Avenue S.W., Seattle, WA 98106.

Following this meeting the regular board of trustees meeting will begin at 6:30 p.m., instead of the regular time of 6:00 p.m., in the South Seattle Community College Board Room.

Both meetings are open to the public.

WSR 88-06-005
NOTICE OF PUBLIC MEETINGS
OIL AND GAS
CONSERVATION COMMITTEE
[Memorandum—February 23, 1988]

The special emergency meeting of the committee scheduled for 10:00 a.m. on March 8, 1988, in Lacey, Washington, has been cancelled.

WSR 88-06-006
ADOPTED RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Order 306—Filed February 23, 1988]

Be it resolved by the State Wildlife Commission, acting at the Best Western Executive Inn, 5700 Pacific Highway East, Tacoma, WA 98424, that it does adopt the annexed rules relating to:

New WAC 232-28-710 1988 Spring turkey seasons and information on spring bear hot spot hunts.
Rep WAC 232-28-709 1987 Spring bear and turkey seasons.

This action is taken pursuant to Notice No. WSR 87-24-094 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 15, 1988.

By Dr. James M. Walton
Chairman, Wildlife Commission

NEW SECTION

WAC 232-28-710 1988 SPRING TURKEY SEASONS AND INFORMATION ON SPRING BEAR HOT SPOT HUNTS.

Reviser's note: The text and accompanying pamphlet comprising the 1988 Spring turkey seasons and information on spring bear hot spot hunts adopted by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-709 1987 SPRING BEAR AND TURKEY SEASONS

WSR 88-06-007
PROPOSED RULES
DEPARTMENT OF LICENSING
(Examining Board of Psychology)
[Filed February 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Examining Board of Psychology intends to adopt, amend, or repeal rules concerning:

New	WAC 308-122-235	Qualifications for granting of license by reciprocity.
New	WAC 308-122-720	Temporary permits.
Amd	WAC 308-122-200	Psychologists—Education prerequisite to licensing.
Amd	WAC 308-122-215	Psychologists—Experience prerequisite to licensing.
Amd	WAC 308-122-640	Public statements;

that the agency will at 9:30 a.m., Friday, April 8, 1988, in the Seattle Airport Hilton, Harbor Room, 17620 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.83.050.

The specific statute these rules are intended to implement is RCW 18.83.050, 18.83.070, 18.83.082 and 18.83.170.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 1, 1988.

Dated: February 16, 1988
By: Amanda L. Tomlinson
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rules, Sections or Chapter:
Chapter 308-122 WAC Licensing of psychologists includes; 308-122-235 Qualifications for granting of license by reciprocity; 308-122-720 Temporary permit; 308-122-200 Psychologists—Education prerequisite to licensing; 308-122-215 Psychologists—Experience prerequisite to licensing; and 308-122-640 Public statements.

Statutory Authority: RCW 18.83.050.

Specific Statutes that Rules are Intended to Implement: RCW 18.83.050, 18.83.070, 18.83.082 and 18.83.170.

Summary of the Rules: WAC 308-122-235 sets forth the examination requirements for those applying for licensure by reciprocity; WAC 308-122-720 clarifies the duration of temporary permits; WAC 308-122-200 pertains to applicants who obtained degrees from foreign universities; WAC 308-122-215 provides that the supervised clock hours of psychological work must be satisfactorily completed as documented by the supervisor(s); and WAC 308-122-640 corrects a code reviser's error.

Reasons Supporting the Proposed Rules and Amendments: To clarify statutes and existing rules which pertain to licensure by reciprocity, temporary permits, and

demonstrating proof of meeting educational and supervised psychological work requirements.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: Linda Crerar, Program Manager, Professional Programs Management Division, P.O. Box 9012, Olympia, WA 98504, (206) 753-3129 comm, 234-3129 scan; and Yvonne Braeme, Assistant Program Manager, Professional Programs Management Division, P.O. Box 9012, Olympia, WA 98504, (206) 753-3095 comm, 234-3095 scan.

Name of Organization that is Proposing the Rules: Washington State Examining Board of Psychology.

These rules are not necessary to comply with a federal law or a federal or state court decision.

A small business economic impact statement is not required and none has been filed.

NEW SECTION

WAC 308-122-235 QUALIFICATIONS FOR GRANTING OF LICENSE BY RECIPROCITY. (1) Candidates applying for licensure pursuant to the provisions of RCW 18.83.170 (1) and (2) shall:

(a) provide evidence of meeting the educational requirements set forth in RCW 18.83.200 in effect at the time the applicant entered his/her doctoral program;

(b) pass the oral examination administered by the board pursuant to RCW 18.83.050.

(2) Candidates applying for licensure pursuant to the provisions of RCW 18.83.170(3) shall:

(a) pass the oral examination administered by the board pursuant to RCW 18.83.050.

NEW SECTION

WAC 308-122-720 TEMPORARY PERMITS. (1) Pursuant to RCW 18.83.082(1), a temporary permit issued to a license applicant:

(a) is valid for no more than 1 year from the date of issue;

(b) is terminated if the license applicant fails either the written or oral examination administered by the board pursuant to RCW 18.83-.050; and/or,

(c) is terminated if the license applicant fails to appear for a scheduled written or oral examination, unless the applicant notifies the board in advance of the inability to appear.

AMENDATORY SECTION (Amending Order PM 678, filed 9/17/87)

WAC 308-122-200 PSYCHOLOGISTS—EDUCATION PREREQUISITE TO LICENSING. To meet the education requirement of RCW 18.83.070, an applicant shall possess a doctoral degree from an institution of higher education accredited in the region in which the doctoral program is offered at the time the applicant's degree was awarded. In that doctoral program, at least forty semester hours, or sixty quarter-hours, of graduate courses shall have been passed successfully, and can be clearly identified by title and course content as being part of a psychology program. One of the standards for issuance of said degree shall have been the submission of an original dissertation which was psychological in nature. Endorsement by the program administrator shall be requested and considered.

An integrated program of graduate study in psychology shall be defined as follows:

(1) The following defines the organizational structure of the program:

(a) The program shall be clearly identified and labeled as a psychology program. Pertinent catalogues and brochures shall show intent to educate and train psychologists.

(b) The psychology program shall stand as a recognized, coherent, entity within the institution.

(c) There shall be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(d) There shall be an organized sequence of study planned by those responsible for the program to provide an appropriate, integrated experience covering the field of psychology.

(e) There shall be an identifiable psychology faculty and a psychologist administratively responsible for the program.

(f) There shall be an identified body of students selected on the basis of high ability and appropriate educational preparation.

(2) The following defines the academic program:

(a) The curriculum shall encompass a minimum of three academic years of full-time graduate study or their equivalent. The doctoral program shall involve at least one continuous year of full-time residency at the institution which grants the degree. The applicant shall clearly have had instruction in: History and systems, research design and methodology, statistics and psychometrics. The program shall require each student to complete three or more semester hours (five or more quarter-hours) of core study in each of the following content areas:

(i) Biological bases of behavior (physiological psychology, comparative psychology, neurobases, sensation and perception, biological bases of development);

(ii) Cognitive-affective bases of behavior (learning, thinking, motivation, emotion, cognitive development);

(iii) Social bases of behavior (social psychology, organizational theory, community psychology, social development);

(iv) Individual differences (personality theory, psychopathology); and

(v) Scientific and professional ethics.

(b) The program shall include practicum, internship, field or laboratory experience appropriate to the area of psychology that is the student's major emphasis.

(3) If the major emphasis is in clinical, counseling, school or other applied area, the program shall include coordinated practicum and internship experience.

(a) Practicum experience shall total at least two semesters (three quarters) and consist of a total of at least 300 hours of direct experience and 100 hours of supervision.

(b) The practica shall be followed by an organized internship. Predoctoral internship programs accredited by the American Psychological Association shall be accepted by the board as meeting this requirement. Otherwise, an organized internship shall be as follows:

(i) The internship shall be designed to provide a planned, programmed sequence of training experiences, the primary focus of which is to assure breadth and quality of training.

(ii) The internship setting shall have a clearly designated psychologist who is responsible for the integrity and quality of the training program and who is licensed/certified by the state/provincial board of psychology examiners.

(iii) The internship setting shall have two or more psychologists available as supervisors, at least one of whom is licensed/certified as a psychologist.

(iv) Supervision shall be provided by the person who is responsible for the cases being supervised. At least seventy-five percent of the supervision shall be provided by a psychologist(s).

(v) At least twenty-five percent of the intern's time shall be spent in direct client contact (minimum 375 hours) providing assessment and intervention services.

(vi) There shall be a minimum of 2 hours per week of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with the direct psychological services rendered by the intern. There shall also be a minimum of 2 hours of other learning activities such as: Case conferences, seminars on applied issues, co-therapy with a staff person including discussion, group supervision.

(vii) Supervision/training relating to ethics shall be an ongoing aspect of the internship program.

(viii) Trainees shall have titles such as "intern," "resident," "fellow," or other designation of trainee status.

(ix) The internship setting shall have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of trainees' work, and made available to prospective interns.

(x) The internship experience shall consist of at least 1500 hours and shall be completed within twenty-four months.

(4) Applicants for licensure who obtained degrees from foreign universities shall first submit, at their own expense, their credentials to an independent, private professional organization approved by the board to establish equivalency of training required by this section.

AMENDATORY SECTION (Amending Order PL 578, filed 2/5/86)

WAC 308-122-215 PSYCHOLOGISTS—EXPERIENCE PREREQUISITE TO LICENSING. (1) Need for supervision. The law

requires that the applicant have at least twelve months experience practicing psychology under qualified supervision after having completed all requirements for a doctoral degree. Supervision must be appropriate to the area(s) of professional activity in which the candidate intends to function.

(2) Twelve months of experience shall include a MINIMUM of 1500 supervised clock hours of psychological work. There should be a MINIMUM of one hour of individual supervision for every twenty hours of psychological work. The majority of supervised hours should be in the area(s) of intended psychological work. Documentation of experience and supervision hours shall be kept by supervisee and supervisor. The supervisor(s) shall forward to the board a written evaluation at the end of the twelve-month period, and shall indicate whether the supervisee has satisfactorily completed the supervised clock hours of psychological work. If any supervisor's(s') written evaluation indicates that the supervisee has failed to satisfactorily complete the required work, the board may require additional supervised clock hours of psychological work.

(3) Appropriate supervision is that provided by a licensed psychologist with two years post-license experience, a psychiatrist with three years of experience beyond residency, or an MSW with five years post degree experience or a doctoral level psychologist by training and degree with two years of post-doctoral experience who is exempt from licensure by RCW 18.83.200 (1); (2); (3); or, (4), but only when supervising within the exempt setting. At least 50 percent of supervision must be provided by a licensed psychologist. The supervisor must have competence in the area(s) of intended psychological work of the supervisee. The supervisor shall not supervise in any area in which he or she does not have competence.

(4) Content of supervision. Supervision should include, but not be limited to, the following content area:

- (a) Discussion of services provided by the supervisee;
- (b) Selection, service plan, and review of each case or work unit of the supervisee;
- (c) Discussion of and instruction in theoretical conceptions underlying the supervised work;
- (d) Discussion of the management of professional practice or other administrative or business issues;
- (e) Evaluation of the supervisory process, supervisee, and supervisor;
- (f) Discussion of the coordination of services among other professionals involved in particular work units;
- (g) Review of relevant Washington laws and rules and regulations;
- (h) Discussion of ethical principles including principles that apply to current work;
- (i) Review of standards for providers of psychological services;
- (j) Discussion of other relevant reading materials specific to cases, ethical issues, and the supervisory process.

(5) Mode of supervision. The nature of supervision will vary depending on the theoretical orientation of the supervisor, the training and experience of the supervisee, and the duration of the supervisory relationship. It is reasonable for a supervisor to ask for detailed process notes and progress reports. Audio tapes, video tapes, client supplied information such as behavioral ratings, and one-way mirror observations are also appropriate when deemed useful and/or necessary. However accomplished, supervision shall include some direct observation of the supervisee's work. The preferred mode of supervision is face-to-face discussion between supervisor and supervisee.

(6) Authority of supervisor. The supervisor is ethically and legally responsible for all supervisee work covered in the written agreement for supervision. Therefore, it is the authority of the supervisor to alter service plans or otherwise direct the course of psychological work.

(7) Written agreement for supervision. The supervisor and supervisee shall have a written agreement for supervision. This shall include:

- (a) The area(s) of professional activity in which supervision will occur;
 - (b) Hours of supervision and/or ratio of supervisory hours or professional hours;
 - (c) Supervisory fees, if appropriate;
 - (d) Process of supervision including mode of supervision, expectations for recordkeeping, and expectations for evaluation and feedback;
 - (e) Relevant business arrangements;
 - (f) How the supervisee will represent him or herself;
 - (g) How disagreements will be handled.
- (8) Representation of supervisee to the public. It shall be the responsibility of the supervisee to represent him or herself to the consuming public as being in training status with a suitable supervisor.

Clients shall be informed of the identity and responsibilities of the supervisor; and shall be informed of their right to consult or speak directly with the supervisor. Such titles as psychological resident, psychological intern or psychological supervisee, are deemed appropriate for the supervisee. NO services provided by the supervisee shall be represented to third parties as having been provided by the supervisor. Insurance forms should be filled out to indicate the nature of the supervisory relationship.

AMENDATORY SECTION (Amending Order PL 578, filed 2/5/86)

WAC 308-122-640 PUBLIC STATEMENTS. Public statements, announcements of service, advertising, and promotional activities of psychologists serve the purpose of helping the public make informed judgments and choice. Psychologists represent accurately and objectively their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which they or the statements may be associated. In public statements providing psychological information or professional opinions or providing information about the availability of psychological products, publications, and services, psychologists base their statements on scientifically acceptable psychological findings and techniques with full recognition of the limits and uncertainties of such evidence.

(1) When announcing or advertising professional services, psychologists may list the following information to describe the provider and services provided: Name, highest relevant academic degree earned from a regionally accredited institution, date, type, and level of certification or licensure, (({{diplomat} {diplomate}})) diplomate status, professional association status, address, telephone number, office hours, a brief listing of the type of psychological services offered, an appropriate presentation of fee information, foreign languages spoken, and policy with regard to third-party payments. Additional relevant or important consumer information may be included if not prohibited by other sections of these ethical principles.

(2) In announcing or advertising the availability of psychological products, publications, or services, psychologists do not present their affiliation with any organization in a manner which falsely implies sponsorship or certification of that organization. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio, or motion picture. They do not contain

- (a) A false, fraudulent, misleading, deceptive, or unfair statement;
- (b) A misinterpretation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
- (c) A statement intended or likely to create false or unjustified expectations of favorable results;

(d) A statement intended or likely to appeal to a client's fears, anxieties, or emotions concerning the possible results of failure to obtain the offered services.

Psychologists do not use power, influence or offers of compensation to solicit testimonials from clients.

(3) Psychologists do not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item. A paid advertisement must be identified as such, unless it is apparent from the context that it is a paid advertisement. If communicated to the public by use of radio or television, an advertisement is prerecorded and approved for broadcast by the psychologist, and a recording of the actual transmission is retained by the psychologist.

(4) Announcements or advertisements of "personal growth groups," clinics, and agencies give a clear statement of purpose and a clear description of the experiences to be provided. The education, training, and experience of the staff members are appropriately specified.

(5) Psychologists associated with the development or promotion of psychological devices, books, or other products offered for commercial sale make reasonable efforts to ensure that announcements and advertisements are presented in a professional, scientifically acceptable, and factually informative manner.

(6) Psychologists present the science of psychology and offer their services, products, and publications fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration, or superficiality. Psychologists are guided by the primary obligation to aid the public in developing informed judgments, opinions, and choices.

(7) As teachers, psychologists ensure that statements in catalogs and course outlines are accurate and not misleading, particularly in terms of subject matter to be covered, bases for evaluating progress, and the

nature of course experiences. Announcements, brochures, or advertisements describing workshops, seminars, or other educational programs accurately describe the audience for which the program is intended as well as eligibility requirements, educational objectives, and nature of the materials to be covered. These announcements also accurately represent the education, training, and experience of the psychologists presenting the programs and any fees involved.

(8) Public announcements or advertisements soliciting research participants in which clinical services or other professional services are offered as an inducement make clear the nature of the services as well as the costs and other obligations to be accepted by participants in the research.

(9) A psychologist accepts the obligation to correct others who represent the psychologist's professional qualifications, or associations with products or services, in a manner incompatible with these guidelines.

(10) Individual diagnostic and therapeutic services are provided only in the context of a professional psychological relationship. When personal advice is given by means of public lectures or demonstrations, newspaper or similar media, the psychologist utilizes the most current relevant data and exercises the highest level of professional judgment.

(11) Products that are described or presented by means of public lectures or demonstrations, newspaper or magazine articles, radio or television programs, or similar media meet the same recognized standards as exist for products used in the context of a professional relationship.

WSR 88-06-008

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Medical Examiners)

[Order PM 706—Filed February 23, 1988]

Be it resolved by the Board of Medical Examiners, acting at Olympia, Washington, that it does adopt the annexed rules relating to the registration and utilization of physician assistants.

This action is taken pursuant to Notice No. WSR 87-24-097 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.71A-.020 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 22, 1988.

By Richard P. Bunch, MD
Chairman

AMENDATORY SECTION (Amending Order PL 507, filed 1/18/85)

WAC 308-52-138 PHYSICIAN ASSISTANTS—PROGRAM APPROVAL. No physician shall be entitled to register a physician assistant who has not successfully completed a program of training approved by the board in accordance with these rules.

(1) Standards. The board will establish standards by which programs designed to produce the various types of physician assistants shall be judged. If the council of

medical education of the American Medical Association has defined "essentials" for such program, these shall be regarded as minimal criteria.

(2) Procedure.

(a) In order for a program for training physician assistants to be considered for approval by the board, the director of the program shall submit to the board a description of the course of training offered, including subjects taught and methods of teaching, entrance requirements, clinical experience provided, etc. The director of the program shall also advise the board concerning the medical skills which are attained in such course, and the methods by which the proficiency of the students in those skills was tested or ascertained. The board may require such additional information from program sponsors as it desires.

(b) The board will approve programs in terms of the skills attained by its graduates and the specialty for which the physician assistant is trained.

(c) Reapproval. Programs maintaining Committee on Allied Health Education and Accreditation standards as defined in the "essentials" of the council of medical education of the American Medical Association will continue to be approved by the board without further review. Each approved program not maintaining the Committee on Allied Health Education and Accreditation standards as defined in the "essentials" of the council of medical education of the American Medical Association will be reexamined at intervals, not to exceed three years. Approval will be continued or withdrawn following each reexamination.

(d) Registry. A registry of approved programs shall be maintained by the board at the division of professional licensing in Olympia, Washington, which shall be available upon request to interested persons.

(3)(a) Where an application for program approval has been pending for one year and has not been approved due to the absence of program standards promulgated by the board, a program may apply for provisional approval.

(b) Such approval is solely for the limited purpose of availing the program's students of the exemption contained in RCW 18.71.030(8) and shall end when the board makes a final determination as to program approval pursuant to this section.

(c) Provisional approval as defined in subsection (b) above can be granted if the program:

(i) Needs such approval in order for the clinical elements of its educational regimen to proceed on schedule;

(ii) Has established the likelihood of satisfying the relevant program approval guidelines in their current form;

(iii) Will otherwise comply with the terms of RCW 18.71.030(8); and

(iv) Agrees to such other safeguards as the board may stipulate to ensure patient safety.

AMENDATORY SECTION (Amending Order PM 599, filed 5/29/86)

WAC 308-52-139 PHYSICIAN ASSISTANT—REGISTRATION. (1) Classification. Each physician

assistant will be classified according to the specialty or content of his or her training program.

(2) Registration procedure. Applications shall be made jointly by the physician and the assistant on forms supplied by the board. Applications and supporting documents must be on file in the board office prior to consideration for registration. An application which clearly meets the board's requirements may receive interim approval by the board's executive secretary or ((assistant executive secretary)) their designee. Interim approval and all other applications are subject to final action by a board member or at a regular meeting of the board, such review may include an interview.

(3) Registration expiration and renewal. Physician assistant original registration will be issued to expire on the physician assistant's next birthdate. Each registered assistant and the registering physician shall be required to submit an application and fees annually for renewal of their registration at least sixty days prior to the expiration of the registration. Application for renewal shall be submitted on forms provided by the board. ((A statement must be made concerning any changes in utilization requested, which will be subject to approval of the board.))

(4) Change of registration. In the event that a physician assistant who is currently registered desires to become associated with another physician, such transfer may be accomplished administratively, providing that evidence is submitted to document the continuing competence of the physician assistant. Application for transfer of registration shall be made on forms provided by the board. Final approval may be granted administratively for transfer registrations which clearly meet board requirements. All other applicants will be reviewed by a board member or at a regular meeting of the board, such review may include an interview.

((5) Utilization plan. The application for registration of a physician assistant must include a detailed plan describing the manner in which the physician assistant will be utilized. The board will grant specific approval for the tasks which may be performed by the specialized physician assistants based upon the curriculum of the program from which the assistant graduated as contained in the files of the board. In the case of family practice (primary care) and pediatric physician assistants, the board will issue a list of tasks which physician assistants are commonly trained to perform, with the expectation that the physician sponsor will be responsible for determining which of the tasks the physician assistant will perform and at what level of supervision. No assistant shall be registered to perform tasks not contained in the program approval, or in the case of family practice and pediatric physician assistants, the board list, unless evidence satisfactory to the board is submitted demonstrating that he or she has been trained in that function and his or her competence has been properly and adequately tested. Request for approval of newly acquired skills may be considered at any regular meeting of the board or the application committee.))

AMENDATORY SECTION (Amending Order PM 609, filed 8/1/86)

WAC 308-52-140 PHYSICIAN ASSISTANT—UTILIZATION. (1) Limitations, number.

(a) No physician shall supervise more than two graduate physician assistants without special authorization by the board.

(b) The number of physician assistants in excess of two who may be supervised by a single physician in settings as outlined in subsection (2) of this section ((three of this regulation)) shall be established by the board on an individual basis.

(2) ((Limitations, geographic:

(a) No physician assistant shall be utilized in a place geographically separated from the supervising physician's primary place for meeting patients without the express permission of the board. The "primary place for meeting patients" shall be defined to include the physician's office, the institution(s) in which his or her patients are hospitalized or the homes of patients for whom a physician patient relationship has already been established.

(b) Special permission may be granted to utilize a physician assistant in a place remote from the physician's primary place for meeting patients if:

(i) There is a demonstrated need for such utilization.

(ii) Adequate provision for immediate communication between the physician and his or her physician assistant exists.

(iii) A mechanism has been developed to provide for the establishment of a direct patient-physician relationship between the supervising physician and patients who may be seen initially by the physician assistant.

(iv) The responsible physician spends at least one-half day per week in the remote office. In the case of part time or unique practice settings, the sponsoring physician may petition the board to modify the on-site requirement providing the sponsoring physician demonstrates that adequate supervision is being maintained by an alternate method. The board will consider each request on an individual basis.

(v) The provisions of WAC 308-52-141(2) are met.

(vi) The waiting room, offices and examining rooms of all facilities approved as remote sites must have posted a printed announcement that the (named) sponsor is responsible for all care rendered, and that the ((named)) individual providing the care is a physician assistant. Identification of the clinic on the outside facade must include the names of the physician sponsor and the physician assistant.

((7))) Limitations, health care institutions. A physician assistant working in or for a hospital, clinic, long term care facility, or other health care organization shall be registered and supervised ((by a supervising physician)) in the same manner as any other physician assistant and his or her functions shall be limited to those approved by the board. ((The extent to which a physician assistant may practice and write orders is subject to the bylaws of the facility.)) The extent to which a physician assistant may practice and write orders is subject to the bylaws of the facility. His or her responsibilities, if any, to other

physicians must be defined in the application for registration. The physician may be permitted, at the discretion of the board, to utilize the physician assistant in a manner consistent with the standards set forth in WAC 308-52-150.

((4)) (3) Limitations, trainees. An individual enrolled in a training program for physician assistants may function only in direct association with his preceptorship physician or a delegated alternate physician in the immediate clinical setting, or, as in the case of specialized training in a specific area, an alternate preceptor approved by the program. They may not function in a remote location or in the absence of the preceptor.

NEW SECTION

WAC 308-52-147 REMOTE SITE—UTILIZATION—LIMITATIONS, GEOGRAPHIC. (1) No physician assistant shall be utilized in a place geographically separated from the supervising physician without the express permission of the board. A remote site shall be defined as a setting physically separate from the supervising physician's primary place for meeting patients or a setting where a supervising physician is present less than twenty-five percent of the practice time of the physician assistant.

(2) Special permission may be granted to utilize a physician assistant in a remote site if:

(a) There is a demonstrated need for such utilization;
 (b) Adequate provision for immediate communication between the primary or alternate physician and the physician assistant exists;

(c) A mechanism has been developed to provide for the establishment of a direct physician-patient relationship between the supervising physician and patients who may be seen initially by the physician assistant;

(d) The responsible physician spends at least ten percent of the practice time of the physician assistant in the remote office. In the case of part time or unique practice settings, the sponsoring physician may petition the board to modify the on-site requirement providing the sponsoring physician demonstrates that adequate supervision is being maintained by an alternate method. The board will consider each request on an individual basis;

(e) All patient activities, functions, services and treatment measures are properly documented in written form by the physician assistant and reviewed and countersigned by the supervising physician;

(f) The provisions of WAC 308-52-141(4) are met;

(g) The waiting room and offices of all facilities approved as remote sites must have posted a printed announcement that the (named) sponsor is responsible for all care rendered, and the (named) individual providing the care is a physician assistant. Identification of the clinic on the outside facade must include the names of the physician sponsor and the physician assistant.

NEW SECTION

WAC 308-52-148 NONCERTIFIED PHYSICIAN ASSISTANTS. (1) Individuals will be considered as noncertified physician assistants as follows:

(a) Individuals who have graduated from a board approved training program and who have not passed the National Commission on Certification of Physician's Assistants (NCCPA) initial certification examination.

(b) Individuals who are foreign medical graduates who have been certified by the Educational Commission for Foreign Medical Graduates (ECFMG).

(2) On or after March 1, 1988, applicants for original registration will be designated noncertified and considered for registration as follows:

(a) A noncertified physician assistant may perform services for which he or she has been trained as outlined in the procedure reference and guideline established by the board.

(i) The noncertified physician assistant may not practice in a remote site, or prescribe controlled substances unless specially approved by the board.

(ii) A noncertified physician assistant and supervising physician shall ensure that, with respect to each patient, all activities, functions, services and treatment measures are immediately and properly documented in written form by the noncertified physician assistant. Every written entry shall be reviewed and countersigned by the supervising physician within two working days unless a different time period is authorized by the board.

(3) The application for registration of a noncertified physician assistant must include a detailed plan describing the manner in which the noncertified physician assistant will be utilized. The board will grant specific approval for the tasks which may be performed by the specialized, noncertified physician assistant based upon the curriculum of the program from which the noncertified physician assistant graduated as contained in the files of the board. In the case of the noncertified family practice (primary care) and non-certified pediatric physician assistants, the board will issue a list of tasks which noncertified physician assistants are commonly trained to perform. No physician assistant shall be registered to perform tasks not contained in the program approval.

(4) It shall be the responsibility of the supervising physician to ensure that adequate supervision and review of the work of the noncertified physician assistant is provided.

(a) In the temporary absence of the supervising physician, the noncertified physician assistant may carry out those tasks for which they are registered, if the supervisory and review mechanisms noted above are provided by a delegated alternate physician supervisor.

(b) The noncertified physician assistant may not function as such if these supervisory and review functions are impossible.

(5) The noncertified physician assistant, at all times when meeting or treating patients, must wear an identifying badge in a prominent place on his or her person identifying him or her as a physician assistant.

(6) No noncertified physician assistant may advertise themselves in any manner which would tend to mislead the public generally or the patients of the physician as to their role.

NEW SECTION

WAC 308-52-149 CERTIFIED PHYSICIAN ASSISTANTS. (1) On or after March 1, 1988, individuals who have graduated from a board approved training program and who have passed the National Commission on Certification of Physician's Assistants (NCCPA) initial certification examination will be considered as certified physician assistants.

(2) A certified physician assistant may provide those services which he or she is competent to perform and which are consistent with the certified physician assistant's education, training, and experience.

(3) The supervising physician shall be responsible for determining the tasks and degree of supervision required for performance of special tasks in accordance with the board approved standard utilization plan. Any task or level of supervision in excess of those authorized must be supported by a written explanation describing the physician assistant's training, experience and demonstrated ability. The board may approve expanded tasks or supervision levels on an individual basis. If the certified physician assistant is being trained to perform additional tasks beyond those authorized, such training may be carried out only under the direct, personal supervision of the supervising physician or a qualified person designated by him or her. Evidence that is satisfactory to the board must be submitted demonstrating that he or she has been trained in that function and his or her competence has been properly and adequately tested. Requests for approval of newly acquired skill may be considered by a reviewing board member or at any regular meeting of the board.

(4) The functions of the certified physician assistant include performing diagnostic, therapeutic preventive and health maintenance services in any setting in which the physician renders care in order to allow more effective and focused application of the physician's particular knowledge and skills. The certified physician assistant is accountable for their own actions.

(5) It shall be the responsibility of the supervising physician to ensure adequate supervision and review of the work of the physician assistant is provided.

(a) The supervising physician shall review and countersign pertinent notes and orders concerning patient care provided by the physician assistant, if such care is rendered without direct consultation with the physician. The time period for such review and countersignature shall be established in the utilization plan and will depend upon the practice setting. Patient charts which reflect physician assistant care rendered with direct physician consultation need not be countersigned.

(b) In the temporary absence of the supervising physician, the physician assistant may carry out those tasks for which they are registered, of the supervisory and review mechanisms noted above are provided by a delegated alternate physician supervisor.

(c) The certified physician assistant may not function as such if these supervisory and review functions are impossible.

(6) The certified physician assistant must, at all times when meeting or treating patients, wear an identifying

badge in a prominent place on his or her person identifying him or her as a certified physician assistant.

(7) No certified physician assistant may advertise themselves in any manner which would tend to mislead the public generally or the patients of the physician as to their role.

WSR 88-06-009**ATTORNEY GENERAL OPINION**

Cite as: AGO 1988 No. 1

[January 29, 1988]

SCHOOL DISTRICTS—SPECIAL LEVIES—LEVY REDUCTION FUNDS—BUDGET APPROPRIATIONS

1. The Local Education Program Enhancement Funds appropriated by the Legislature in section 506 of chapter 7, Laws of 1987, 1st Ex. Sess., are block grant funds and therefore are "levy reduction funds" as defined in RCW 84.52.0531 as amended by the 1987 Legislature.

2. The Legislature is not legally required to specify whether appropriations for new programs or program enhancements are "levy reduction funds," but labeling by the Legislature greatly aids in determining legislative intent.

Requested by:

Honorable Daniel K. Grimm
Chairman, House Ways & Means Committee
204 House Office Building
Olympia, Washington 98504

WSR 88-06-010**ATTORNEY GENERAL OPINION**

Cite as: AGO 1988 No. 2

[February 1, 1988]

SCHOOL DISTRICTS—STATUTORY AUTHORITY—HEALTH CARE CLINICS

School districts do not, under current state law, have authority to operate adolescent health care clinics, or to provide public funds or school facilities for such clinics.

Requested by:

Honorable Mike Padden
State Representative, Fourth District
East 13021 Ninth Avenue
Spokane, WA 99126

WSR 88-06-011**ATTORNEY GENERAL OPINION**

Cite as: AGO 1988 No. 3

[February 5, 1988]

STATE AGENCIES—AUTHORITY TO CONTRACT WITH FEDERAL GOVERNMENT—HOUSING OF PRISONERS

The Washington Department of Corrections has authority to enter into an agreement whereby the Department will house federal prisoners in Washington state prisons, in return for monetary payments from the federal government.

Requested by:

Honorable Phil Talmadge
State Senator, 34th District
1725 S.W. Roxbury, No. 5
Seattle, WA 98106

WSR 88-06-012

ATTORNEY GENERAL OPINION
Cite as: AGO 1988 No. 4
[February 18, 1988]

STATE AGENCIES—MUNICIPAL CORPORATIONS—CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

1. A public agency may not, in procuring architectural or engineering services, consider proposed price or cost in determining which firm is most highly qualified to provide services.
2. When a public agency selects a firm to perform architectural or engineering services, price and cost may be considered only after the most qualified firm has been selected, at which time the law provides for negotiation of a "fair and reasonable" price.

Requested by:

Honorable Gary Nelson
Honorable Lorraine Hine
Legislative Building
Olympia, Washington 98504

WSR 88-06-013

ADOPTED RULES

DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 289A—Filed February 23, 1988]

Be it resolved by the State Personnel Board, that it does adopt the annexed rules relating to this is correcting Order 289 filed January 19, 1988, adopting WAC 356-05-123. The records of the State Personnel Board indicate that on the January 14, 1988, meeting the rule was not adopted and should have been continued to March 10, 1988.

Michael F. Welsh
By Leonard Nord

WSR 88-06-014

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed February 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning disciplinary action, new WAC 356-05-123;

that the agency will at 10:00 a.m., Thursday, March 10, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 8, 1988.

This notice is connected to and continues the matter in Notice Nos. WSR 88-01-067 and 88-03-040 filed with the code reviser's office on December 18, 1987, and January 19, 1988.

Dated: February 22, 1988

By: Leonard Nord
Secretary

WSR 88-06-015

NOTICE OF PUBLIC MEETINGS

WHATCOM COMMUNITY COLLEGE

[Memorandum—February 23, 1988]

The board of trustees of Whatcom Community College, District Number Twenty-One, will hold its regular meeting at the following time and place: March 8, 1988, Tuesday, 2:00 p.m., Board Room, Cordata Facility, 237 West Kellogg Road, Bellingham, WA 98226.

WSR 88-06-016

NOTICE OF PUBLIC MEETINGS

DEPARTMENT OF NATURAL RESOURCES

[Memorandum—February 24, 1988]

WOODARD BAY NATURAL RESOURCES CONSERVATION AREA—ACQUISITION

7:00 p.m., April 6, 1988, Heritage Building, Thurston County Fairgrounds.

Receive public input on the acquisition and future use of the Weyerhaeuser South Bay Log Dump property known as Woodard Bay.

Written statements must be received by 4:00 p.m., April 13, 1988. Send comments to: Department of Natural Resources, Mailstop EK-12, Attn: Land and Water Conservation Division, Olympia, WA 98504.

WSR 88-06-017
ADOPTED RULES
HORSE RACING COMMISSION
[Order 88-01—Filed February 24, 1988]

I, Lyle Smith, Chairman of the Washington Horse Racing Commission, do promulgate and adopt at the Sea-Tac Red Lion, 18740 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to:

New WAC 260-16-090 Arabian horses—Certification.
Amd WAC 260-20-170 First-aid equipment and personnel.

This action is taken pursuant to Notice No. WSR 88-01-077 filed with the code reviser on December 21, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 67.16.075 which directs that the Washington Horse Racing Commission has authority to implement the provisions of RCW 67.16.075.

This rule is promulgated under the general rule-making authority of the Washington Horse Racing Commission as authorized in RCW 67.16.020 and 67.16.040.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 28, 1988.
By Edward John Crowley, Jr.
Executive Secretary

NEW SECTION

WAC 260-16-090 ARABIAN HORSES—CERTIFICATION. (1) Certification of Arabian horses shall be as follows: The breeder or owner of an Arabian horse shall apply to the Washington State Arabian Horse Racing Association (WSAHRA) for such certification. Forms will be provided by the WSAHRA for the applicant to complete and return to WSAHRA. These include a form to be completed by the owner or manager (or an authorized agent of the owner or manager) of the farm on which the horse was foaled, and a form to be completed by the current owner of the horse.

(2) Certification of Arabian horses foaled in 1987 or before shall be as follows: Arabian horses foaled in Washington in 1987 or before shall be certified as "Washington-bred" by the WSAHRA when application for such certification has been approved by the WSAHRA, and provided that the completed application forms are accompanied by a fee of ten dollars per horse and are received by the WSAHRA by December 31, 1988. No applications for certification of horses born in 1987 or before shall be accepted after December 31, 1988.

(3) Certification of Arabian horses foaled in 1988 or thereafter shall be as follows: Arabian horses foaled in Washington in 1988 or thereafter shall be certified as

"Washington-bred" by the WSAHRA for a fee of ten dollars, provided that the completed application forms and proper fees for such certification are received by the WSAHRA by December 31 of the year in which they are foaled.

If such application forms or fees for certification are received by the WSAHRA after December 31 of the year they are foaled, but by December 31 of the year after the horse is foaled, then there will be a charge of fifty dollars for such certification. However, no application for certification will be accepted beyond December 31 of the year after the horse is foaled.

AMENDATORY SECTION (Amending Order 81-05, filed 7/10/81)

WAC 260-20-170 FIRST AID EQUIPMENT AND PERSONNEL. Each racing association shall equip and maintain at its track temporary facilities with not less than two beds, equipped with such first aid appliances and material as shall be approved by the commission, and shall provide the attendance of a competent physician and one licensed nurse, registered nurse, or physician's assistant, at the option of the track, therat during racing hours. A racing association conducting a meet with an average daily handle of one hundred twenty thousand dollars or less may provide at its track a licensed paramedic in lieu of a physician if the services of a competent physician cannot be obtained.

WSR 88-06-018
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF INFORMATION SERVICES
[Memorandum—February 17, 1988]

The following is a list of dates and times for Information Services board meetings during the remainder of 1988. All meetings will be held at the Tyee Motor Inn, Tumwater, Washington.

DATE	TIME	LOCATION
March 24, 1988	1:30 p.m.	Olympia Room
May 26, 1988	1:30 p.m.	Olympia Room
July 28, 1988	1:30 p.m.	Lakefair Room
September 29, 1988	1:30 p.m.	Olympia Room
November 17, 1988	1:30 p.m.	Olympia Room

WSR 88-06-019
ADOPTED RULES
PUBLIC DISCLOSURE COMMISSION
[Resolution No. 88-01—Filed February 24, 1988]

Be it resolved by the Public Disclosure Commission, acting at 403 Evergreen Plaza Building, 711 South Capitol Way, Olympia, WA 98504, that it does adopt the annexed rules relating to Definition—Development, new WAC 390-20-022.

This action is taken pursuant to Notice Nos. WSR 87-19-155 and 88-01-001 filed with the code reviser on September 23, 1987, and December 3, 1987. These rules

shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 42.17.370(1) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 23, 1988.

By Graham E. Johnson
Executive Director

NEW SECTION

WAC 390-20-022 DEFINITION—DEVELOPMENT. (1) "Development", as that term is used in RCW 42.17.170 and .180, is an integral part of lobbying and means activities preliminary to or in preparation for the communication of fact, opinion or observation intended to influence the passage or defeat of legislation or of rules of state agencies. Examples of such activities are: researching issues, drafting language for bills or rules, formulating strategy, consulting with other lobbyists or persons considered to be supporters or opponents of the legislation or rules, monitoring the progress of legislation or rules, arranging or organizing public support for a position on legislation or rules, or giving opinions regarding the effect of legislation or rules.

(2) "Development" does not include activities preliminary to an employer's decision to lobby or employ a lobbyist. Examples of such excluded activities are: the cultivation of or negotiation with prospective employers, the explanation or interpretation of legislation or current law (including rules), instructing employers or prospective employers on the legislative process when no commitment to lobby has been made, participation of members of an association in a meeting when discussion of legislation or rules is for informational purposes only or incidental to the primary purpose(s) of the meeting, or responding to surveys conducted in whole or in part to solicit expressions that will help an entity determine whether or not it wishes to undertake a lobbying effort.

**WSR 88-06-020
PROPOSED RULES
EVERETT COMMUNITY COLLEGE**

[Filed February 25, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Washington State Community College District V intends to adopt, amend, or repeal rules concerning procedures for administering the Professional Negotiations Law, chapter 132E-112 WAC;

that the institution will at 2:00 p.m., Monday, April 18, 1988, in the Administrative Conference Room, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.52.080.

The specific statute these rules are intended to implement is chapter 28B.19 RCW.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 18, 1988.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments or rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Mr. Robert J. Drewel, President
Everett Community College
801 Wetmore
Everett, WA 98201
(206) 259-7151, ext. 202

Dated: February 18, 1988
By: Robert J. Drewel
President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 132E-112 WAC, Procedures for administering the Professional Negotiations Law.

Statutory Authority: RCW 28B.52.080.

Summary of the Rule(s): This notice proposes a repeal of chapter 132E-112 WAC, Procedures for administering the Professional Negotiations Law. WAC no longer has authority over these rules.

The board of trustees of Washington Community College District V proposes this repeal.

Reasons Supporting the Proposed Rule(s): WAC no longer has authority over these rules.

Agency Personnel Responsible for the Drafting, Implementation and Enforcement of the Rule: Mr. Robert J. Drewel, President, Everett Community College, 801 Wetmore, Everett, WA 98201, (206) 259-7151, ext. 202.

Name of Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Washington Community College District V.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132E-112-010 ACADEMIC EMPLOYEES—ELECTIONS AND RECOGNITION—PROCEDURES—PURPOSE.

WAC 132E-112-020 DEFINITIONS.

WAC 132E-112-030 REQUEST FOR ELECTION—CANNASS OF ACADEMIC EMPLOYEES BY INDEPENDENT AND NEUTRAL PERSON OR ASSOCIATION.

WAC 132E-112-040 NOTICE OF ELECTION—ORGANIZATION TO BE INCLUDED ON BALLOT—TIME FOR FILING.

WAC 132E-112-050 CONTENTS OF NOTICE OF ELECTION—DESIGNATION OF CHIEF ELECTION OFFICER—DUTIES.

WAC 132E-112-060 LIST OF ACADEMIC EMPLOYEES—POSTING OF LIST.

WAC 132E-112-070 ELECTION INSPECTORS—DUTIES—RIGHT TO CHALLENGE VOTER—IMPROPER CONDUCT.

WAC 132E-112-080 BALLOTS.

WAC 132E-112-090 RECORD OF VOTE—SIGNATURE—CHALLENGE.

WAC 132E-112-100 INCORRECTLY MARKED BALLOT.

WAC 132E-112-110 PRIVACY FOR VOTER—EQUIPMENT.

WAC 132E-112-120 FOLDING BALLOT—BALLOT BOX.

WAC 132E-112-130 CHALLENGED BALLOT—PROCEDURE.

WAC 132E-112-140 EMPLOYEES PRESENT ENTITLED TO VOTE—SEALING BALLOT BOX—UNUSED BALLOTS.

WAC 132E-112-150 ABSENTEE VOTING.

WAC 132E-112-160 ELECTION INSPECTOR'S DUTIES AFTER VOTING HAS TERMINATED.

WAC 132E-112-170 DISPOSITION OF CHALLENGED BALLOTS—TALLY SHEETS—INVESTIGATION BY CHIEF ELECTION OFFICER.

WAC 132E-112-180 COUNTING OF BALLOTS—PROCEDURE—CERTIFICATION OF RESULTS OF ELECTION—RETENTION OF BALLOTS—SIGNED VOTING LISTS.

WAC 132E-112-190 ELECTIONEERING WITHIN THE POLLS FORBIDDEN.

WAC 132E-112-200 CONTEST OF ELECTION—TIME FOR FILING OBJECTIONS—INVESTIGATION OF OBJECTIONS.

WAC 132E-112-210 PERSONS ELIGIBLE TO VOTE—DEFINITION OF "ACADEMIC EMPLOYEE."

WAC 132E-112-220 ELECTION DETERMINED BY MAJORITY OF VALID VOTES CAST—RUN-OFF ELECTION.

WAC 132E-112-230 TIME LAPSE FOR NEW ELECTION.

WSR 88-06-021
ADOPTED RULES
BOARD OF ACCOUNTANCY
[Order ACB-146—Filed February 25, 1988]

Be it resolved by the Board of Accountancy, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

New WAC 4-25-190 Experience.
Rep WAC 4-25-181 Experience.

This action is taken pursuant to Notice No. WSR 87-22-069 filed with the code reviser on November 4, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.04.215 [(1)](a) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 22, 1988.

By Carey L. Rader
Chief Executive Officer

NEW SECTION

WAC 4-25-190 EXPERIENCE. Experience required for issuance of an initial license pursuant to RCW 18.04.215 (1)(a) shall meet the requirements of this section:

(1) EXPERIENCE DEFINITION AND TIMING: One year of experience shall consist of full-time employment of no less than two thousand hours. For purposes of computing work experience for a part-time employee, two thousand hours shall constitute one year. Employment may be for one or more employers, with or without compensation, and may consist of any combination of full-time and part-time employment. For an applicant who passed the uniform certified public accounting examination prior to May 1988, experience obtained more than five years prior to application for initial license shall be supplemented by eighty hours of continuing education during the two-year period prior to application. For an applicant who passed the examination in May 1988, or thereafter, experience must be obtained within the five-year period prior to application.

(2) EXPERIENCE IN PUBLIC ACCOUNTING:

(a) An applicant shall show he/she has had employment for a period of one year as a staff accountant under the direct supervision of a currently licensed certified public accountant who is actively engaged in the practice of public accounting. Qualifying experience for purposes of this section shall mean the performance of services as one skilled in the knowledge and practice of public accounting, including performance of accounting or auditing procedures, issuance of reports on financial statements, performance of management advisory or other consulting services, preparation of tax returns and furnishing advice on tax matters.

(b) Public accounting services shall be performed for clients of a certified public accountant or a firm of certified public accountants in compliance with the board's rules and must regularly involve the exercise of independent judgment and the application of appropriate technical and behavioral standards such as the standards contained in the Code of Professional Ethics, Generally Accepted Auditing Standards, Statement of Responsibilities in Tax Practice, Statement on Standards for Management Advisory Services, Statement on Standards for Accounting and Review Services, Statement on Standards for Attestation Engagements and other similar practice standards issued by the American Institute of Certified Public Accountants.

(c) Commencing July 1, 1988, an applicant shall demonstrate that he/she has obtained required experience by performing one or more of the services described

in (a) and (b) of this subsection, including attest function experience related to reports on financial statements. As a guideline, five hundred hours of attest function experience will be necessary to achieve a minimum level of competence. Experience gained in less than five hundred hours will be evaluated for quality and substance on a case-by-case basis. The attest function experience shall consist of experience within activities generally performed by certified public accountants in audit engagements, review engagements, compliance audits, management audits, operational audits, or other attest function engagements.

(d) An applicant's attest function experience shall include the following:

(i) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records;

(ii) Experience in the preparation of working papers in connection with each element of the work accomplished under (d)(i) of this subsection;

(iii) Experience in the planning of the program for the application of accounting and/or auditing procedures and techniques including the selection of the procedures to be followed;

(iv) Experience in the preparation of written explanations and comments on the results of accounting and/or auditing work; and

(v) Experience in the preparation and analysis of financial statements, including explanations and notes.

(e) Attest function experience shall be documented on an experience affidavit form provided by the board which enumerates specific procedures typically applied in an audit of financial statements. The objective of the affidavit is to provide evidence that an applicant has a satisfactory knowledge of current practice standards and pronouncements of the profession.

(3) EXPERIENCE OTHER THAN IN PUBLIC ACCOUNTING:

(a) The experience required, as stated in subsection (2) of this section, may also be met by work experience, not including in-classroom training, performed under the direct supervision of a currently licensed certified public accountant in a commercial or governmental organization which has filed a sponsorship agreement with the board, acceptable to the board, which among other things specifies:

(i) The scope of accounting, auditing, consulting, and other services performed within the organization;

(ii) The professional education and on-job training provided to an applicant prior to application; and

(iii) The program of review and supervision performed by the internal review committee within the organization which administers the agreement.

(b) Qualifying work experience must be of a type and at a level equivalent to that performed in public accounting practice and must regularly involve the exercise of independent judgment and the application of the appropriate technical and behavioral standards.

(c) Two years of experience outside of public accounting shall be considered equivalent to one year of public accounting experience.

(4) EXPERIENCE AFFIDAVIT: The experience claimed by an applicant shall be verified by the certified public accountant or firm of certified public accountants supervising the applicant on an experience affidavit form provided by the board.

(5) EXAMINATION OF EXPERIENCE DOCUMENTATION:

(a) Any licensee who has furnished evidence of an applicant's experience to the board shall upon request by the board explain in writing or in person the information so provided.

(b) The board may require an interview or an inspection of documentation relating to an applicant's experience. Any licensee having custody of such documentation shall produce it upon request by the board.

(c) Any licensee who refuses to provide the evidence or documentation of the applicant's experience, requested by an applicant or by the board, shall upon request by the board explain in writing or in person the basis for such refusal.

(6) RECIPROCITY: An applicant who applies for initial license in this state shall be required to document experience obtained in another jurisdiction which is equivalent to the requirements of this state.

WSR 88-06-022
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed February 25, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning Holidays—Rules, regulations governing, amending WAC 356-18-030;

that the agency will at 10:00 a.m., Thursday, April 14, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988.

Dated: February 24, 1988
By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amend: WAC 356-18-030.

Title: Holidays—Rules, regulations governing.

Purpose: Explains how holidays are shifted for weekends, etc.

Statutory Authority: RCW 41.06.150(9).

Summary: Allows agencies to shift holidays to the beginning of the shift that starts on the calendar holiday,

or at the beginning of the shift that starts on the day preceding the calendar holiday.

Reasons: Many employees work from 10 p.m. until 6 a.m. The holidays start at midnight. To avoid overtime, the rule presently would require employees to come in at 10 p.m., work until midnight when the holiday starts, go home until midnight when the holiday ends, and work 6 hours to the end of their shift.

Responsibility for Drafting: Gail Salisbury, Department of Personnel, 600 South Franklin, FE-11, Olympia, WA 98504, phone (206) 753-5383; **Implementation and Enforcement:** Department of Personnel.

Agency or Organization Submitting Proposal: Department of Personnel.

Comments: Literal interpretation of the present rule is not a reasonable way to schedule the work of night shift employees who work from one day into the next. This rule is needed to avoid unnecessary overtime payments if the employees are not to be subjected to the inconvenience of working a part of their shift on either side of the calendar holiday.

Rule Proposal a Result of Federal Law, or Federal or State Court Action: No.

AMENDATORY SECTION (Amendatory Order 233, filed 9/24/85)

WAC 356-18-030 HOLIDAYS—RULES—REGULATIONS GOVERNING. (1) The holidays cited in WAC 356-18-020 except Sundays are paid nonworking days for eligible employees.

(2) When operational necessity requires that employees work on a holiday except Sundays, they shall be compensated in accordance with the applicable provisions of the compensation plan appendix and chapter 356-15 WAC.

(3) For full-time employees on a Monday through Friday work schedule:

(a) Whenever any legal holiday falls on a Saturday, the preceding Friday shall be the holiday. Whenever any legal holiday, other than a Sunday, falls on a Sunday, the following Monday shall be the holiday.

(4) For full-time employees not on a Monday through Friday work schedule:

(a) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's scheduled work day, that day will be considered the holiday.

(b) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's scheduled day off, agencies shall, with respect to each individual employee, treat either the last preceding or the next following work day as the holiday.

(5) For employees working a night shift schedule which begins on one calendar day and ends on the next, the 24-hour "paid holiday" shall be determined by the agency to commence either at the start of the scheduled night shift that begins on the calendar holiday, or at the start of the shift that precedes the calendar holiday.

((5)) (6) Part-time employees who were on the payroll before and after the holiday and for a period of at least twelve calendar days during the month (but not including the holiday) will be compensated in cash, compensatory time, or exchange time for the holiday in a proportionate amount of time actually worked during the month to that required for full-time employment.

WSR 88-06-023

PROPOSED RULES

EDMONDS COMMUNITY COLLEGE

[Filed February 25, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Edmonds Community College District 23 intends to adopt, amend, or repeal rules concerning tuition and fees policy, repealing chapter 132Y-20 WAC;

that the institution will at 4:00 p.m., Thursday, April 21, 1988, in the Board Room, LYN 424, Edmonds Community College, Lynnwood, WA 98036, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 21, 1988.

Dated: February 19, 1988

By: Barbara Patterson
Director of Human Resources
Assistant to the President

STATEMENT OF PURPOSE

Title: Tuition and fees refund rule.

There is no requirement that the tuition and fees refund policy be in the Washington Administrative Code.

The schedule for refunds of tuition and fees is adopted by the Edmonds Community College board of trustees in conjunction with the requirements of RCW 28B.15.600 Refunds or cancellation of fees. There is no requirement that this policy be made into a rule and the statute is permissive in its requirements for how refunds will occur. The college will adopt a policy for tuition and fees refunds through its regular policy-making process of the board of trustees.

Officials Responsible for Tuition and Refund Policy Language: Barbara Patterson, Director of Human Resources, Assistant to the President; and Milt Stark, Associate Dean for Information Services.

The repeal of the present rule is proposed by Edmonds Community College.

WSR 88-06-024

PROPOSED RULES

EDMONDS COMMUNITY COLLEGE

[Filed February 25, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Edmonds Community College intends to adopt, amend, or repeal rules concerning policy for dismissal of tenured and probationary faculty members, repealing chapter 132Y-140 WAC;

that the institution will at 4:00 p.m., Thursday, April 21, 1988, in the Board Room, LYN 424, Edmonds Community College, Lynnwood, WA 98036, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 21, 1988.

Dated: February 23, 1988
 By: Barbara Patterson
 Director of Human Resources
 Assistant to the President

STATEMENT OF PURPOSE

Title: Policy for dismissal of tenured and probationary faculty members.

It is the policy of the board of trustees of Community College District No. 23, Edmonds Community College, that all matters relating to the dismissal of tenured and probationary faculty shall be governed by the laws of the state of Washington and the terms of any collective bargaining agreement between the board and the duly elected academic employee bargaining agent or any policies adopted by the board.

The terms and conditions of dismissal of tenured and probationary faculty are the subject of collective bargaining between the college and the faculty bargaining agent within the parameters of RCW 28B.50.140, 28B-.50.850. The present collective bargaining agreement does not agree with chapter 132Y-140 WAC. There is no requirement that personnel rules or terms of collective bargaining agreements between the board and the faculty be adopted into the Washington Administrative Code.

Officials Responsible for Dismissal Policy for Tenured and Probationary Faculty: Barbara Patterson, Director of Human Resources, Assistant to the President; and Thomas C. Nielsen, President.

The repeal of the present rule is proposed by Edmonds Community College.

WSR 88-06-025 ADOPTED RULES DEPARTMENT OF LICENSING [Order DLR 164—Filed February 25, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at the Department of Licenses Building, Olympia, Washington, the annexed rules relating to WAC 308-61-026, 308-61-108, 308-61-135, 308-61-158 and 308-61-175 pertaining to registered tow truck operators; WAC 308-61-210, 308-61-240, and 308-61-260 pertaining to wreckers; and WAC 308-61-330 and 308-61-430 pertaining to hulk haulers and scrap processors.

This action is taken pursuant to Notice No. WSR 88-01-032 filed with the code reviser on December 10, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Licensing as authorized in RCW 46.55.190, 46.80.140 and 46.79.080.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 23, 1988.

By Theresa Anna Aragon
 Director

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-026 DEFINITIONS CONTINUED—REGISTERED TOW TRUCK OPERATOR.
 (1) "Affidavit of sale" — that document prescribed by the department and given to the successful bidder by the operator. The affidavit shall state that the sale was conducted properly pursuant to chapter 46.55 RCW. The affidavit may be submitted to the department with an application for certificate of title or may be used as a title document by a licensed auto wrecker, hulk hauler or scrap processor.

(2) "Secure area" — a place of safety for vehicle storage and in an area completely enclosed by a fence of sufficient height and construction to prevent access by the general public, with a gate which can be locked. The fence shall be at least six feet high with at least two strands of barbed wire along the top, for a total combined height of eight feet or more, provided, however, that the fencing requirement may be waived by the department where, due to the topography or zoning a fence would be impracticable and the storage area is secure without a fence. When a licensee has operator registrations under more than one name and owns or leases a common secure area, the areas for each operator registration must be segregated by a physical barrier at least as strong as one strand of chain, cable or barbed wire. When two or more operators with different ownership share a secured area, those respective areas must be segregated by an eight-foot fence as described above.

Wherever practicable secure storage areas will be located on improved property which is leveled and illuminated at night for the safe keeping of stored vehicles.

(3) "Abandoned vehicle report" — is that document, prescribed by the department, by which the operator is to report to the department his/her possession of an abandoned vehicle.

(4) "Notice of custody and sale" — is that document sent by the operator to the registered owner, legal owner (lien holder) ((and to a vehicle purchaser identified on a seller's report of sale;)) giving notice of the amount of the operator's lien for services, place and time of public auction if the vehicle is not redeemed, and of the operator's right to seek a deficiency against the last registered owner ((or the purchaser identified on a seller's report of sale)).

(5) "Registered tow truck operator's business location" — is a location at which records and files necessary to conduct the business are kept, and where the operator can normally be contacted by the public.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-108 GENERAL LICENSING PROVISIONS. (1) Staggered licensing – the annual registration issued to tow truck operators shall expire on the date indicated by the director.

(2) Additional secure areas for vehicle storage – additional storage locations may be operated under one registration. No additional bond or insurance will be required for such premises so long as each is covered by the bond and insurance. ((Each additional storage location must be operated under the same name as the principle place of business where files are kept and must be within the same county. If an operator locates in another county a separate registration is required.))

(3) If an operator has more than one registered business location, storage areas for each business location must be listed with the department under its registration.

(4) Change of name and/or address – the department shall be notified immediately, on a form provided by the department, of any change of name and/or address of any business location or of the addition of any location.

((4))) (5) Changes of ownership – any change of partners or of corporate officers shall be immediately reported to the department in writing. A complete change in ownership requires a new registration.

((5))) (6) An insurer shall notify the department at least 10 days prior to cancellation of a policy.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-135 GENERAL PROVISIONS. (1) The properly executed written authority to tow or other evidence of lawful possession shall suffice in lieu of current license plates or trip permits for unauthorized or abandoned vehicles.

(2) Billing invoices shall indicate the time of day when an unauthorized or abandoned vehicle arrived at the secure storage area.

(3) A seller's report of sale filed with the department on a form furnished by the department shall relieve a registered owner from liability for costs incurred in the removal and storage of an unauthorized/abandoned vehicle, in addition to relieving that person from other liability pursuant to RCW 46.12.101. ((The buyer shown on a seller's report shall be considered an owner of record for purposes of the deficiency claim in this chapter.))

((4))) (4) The immediate notice (within 24 hours) and the notice of custody and sale must be mailed to the buyer shown on the seller's report of sale (filed with the department) in the same manner as notices are sent to other owners of record.

((5))) (4) The junk vehicle affidavit of sale as described in (section 23) may be used to sell a vehicle to a licensed hulk hauler, scrap processor, vehicle wrecking yard or it may be used as a supporting document for issuance of a title.

((6))) (5) A stored vehicle may be redeemed any time before the start of auctioning of that particular vehicle.

(6) The written notice of the right of redemption and opportunity for a hearing to contest the validity of an impoundment, to be sent with the twenty-four hour impoundment notice on an unauthorized vehicle impoundment, shall be separate and in addition to the notice of opportunity for a hearing given to those who redeem vehicles.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-158 STORAGE OF VEHICLES. (1) Handling and returning vehicles in substantially the same condition means that vehicles are to be handled with care so that their value is not diminished.

(2) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order shall not be considered abandoned, nor shall it be processed as such. Any storage fees accrued while under agreement ((or)), under police hold, or pursuant to a writ or court order, shall not be included in the abandoned vehicle lien. Upon the expiration of a storage agreement ((or upon)), the lifting of a police hold, or when the writ or court order is no longer in effect, the operator shall begin the unauthorized abandoned vehicle processing, including the notification to vehicle owners by first class mail within ((24)) twenty-four hours.

(3) When vehicles are stored pursuant to a writ or court order, the operator shall keep evidence of the inception and termination dates of the writ or court order in the vehicle transaction file.

(4) Vehicles in the custody of an operator shall be kept entirely within a secure area owned or operated under that registration.

((4))) (5) An operator shall not charge for relocating vehicles between separate secure storage areas which he/she owns or operates.

AMENDATORY SECTION (Amending Order DLR-088, filed 1/6/86)

WAC 308-61-175 PROCEDURES FOR SELLING VEHICLES. (1) For purposes of advertising the sale of abandoned vehicles the vehicle identification number shall be used if no license plates are on the vehicle.

(2) A newspaper of general circulation in the county shall mean a newspaper which is one of three with the largest circulation in the county where the sale will be conducted.

(3) If a vehicle in the custody of an operator is not identifiable, including no license plates or registration, the operator shall conduct ((a thorough)) an examination of the vehicle only to determine its make, model, year and vehicle identification number((, and to locate information leading to the name of the registered and legal owner and the state in which the vehicle was last registered)) which shall be included on the abandoned vehicle report to the department.

(4) If the department cannot provide owner information on a vehicle after the operator submits an abandoned vehicle report, the operator may then inspect the vehicle as permitted in RCW 46.55.100(5) to determine whether owner information is within the vehicle.

(5) Upon inspection of the vehicle as provided in subsection (4) of this section the operator may return the original abandoned vehicle report with additional information from the inspection of the vehicle to assist the department in providing owner information.

(6) The department may require an inspection by the Washington state patrol to verify the vehicle identification number of ((such-a)) an unidentified vehicle. All such information shall be reported to the department, which will communicate with such other states as may be necessary to determine whether the registered and legal owner information is available for the vehicle.

(7) After all reasonable efforts to obtain the owner information have proved unsuccessful, the vehicle may be disposed of in accordance with all procedures except that the notification to the registered and legal owners by certified or registered mail may be omitted. A record of all steps taken to locate the owner(s) of the vehicle shall be kept by the operator for a period of three years.

((4))) (8) If the operator elects to bid at auction, that bid must be disclosed as such, and ((may)) shall not merely be an effort to set a minimum for other bids. If an operator is the successful bidder and the bid exceeds the lien for towing and storage, the excess funds shall be remitted to the department just as in any other sale. The operator cannot elect to retain a vehicle at auction because the operator feels that the bidding is insufficient.

AMENDATORY SECTION (Amending Order DOL 684, filed 5/27/82)

WAC 308-61-210 WRECKERS—SPECIAL PLATES. All vehicles used for towing or transporting vehicles or hulks by a motor vehicle wrecker on the highways of this state in the conduct of his business shall bear regular license plates and, in addition, special wrecker's plates. Wrecker's plates may be obtained at a fee of six dollars which includes \$1.00 for reflectorization under RCW 46.16.237 for the first set, and three dollars including reflectorization for each additional set.

The wrecker may purchase sets of plates equal in number to the number of vehicles reported on his application as owned, rented, leased and operated by him and used by him for towing or transporting of vehicles or hulks in the conduct of his business. Should the wrecker purchase, lease, or rent additional vehicles for towing or transporting of vehicles or hulks in his business during the course of the year, he shall so inform the department and may, at the department's discretion, obtain additional plates for such vehicles.

Each vehicle ((fused)) used for towing or transporting of vehicles or hulks shall display both wrecker plates assigned to it, provided that when any vehicle being towed does not have valid license plates, wrecker plates may be split, with one being displayed on the front of the towing vehicle and the other on the rear of the vehicle being towed.

AMENDATORY SECTION (Amending Order DOL 684, filed 5/27/82)

WAC 308-61-240 WRECKERS—RECORDS AND PROCEDURES FOR MONTHLY REPORTS.

(1) Wrecker books and files. The wrecker shall maintain books and files which shall contain the following:

(a) A record of each vehicle or part acquired giving:

(i) A description of the vehicle or part by make, model, year, and for major component parts vehicle identification number and "yard number" assigned at the time the vehicle or major component part was placed in the wrecking yard;

(ii) The date purchased or acquired by the wrecker, and the name of the person, firm or corporation from which the vehicle or parts were obtained;

(iii) The certificate of title number if registered in a title state, or registration number if a nontitle state or description of document used in lieu of title such as authorizations to dispose and affidavits of sale or bills of sale for vehicle parts; and

(iv) The name of the state and license number in state last registered.

(b) A record of the disposition of the motor, body, and major component parts giving the name of the person purchasing the part(s), if any. Sales to scrap processors shall be accompanied by an invoice or bill of sale, listing each vehicle by its yard number. The wrecker shall retain a copy of such invoice or bill of sale for purposes of inspection for three years; and

(c) A record of each vehicle towed giving:

(i) A description of the vehicle((fs)) by make, model, year, identification number, license number and name of the owner; and

(ii) A statement giving the place where picked up, destination, and date.

These records will be subject to inspection by authorized representatives of the department and law enforcement officials during regular business hours. The foregoing information shall be entered in the wrecker's records within two business days of the event requiring the entry, such as receipt of a vehicle.

(2) Must furnish written reports. By the tenth of the month following receipt of vehicles to be destroyed, each wrecker shall submit a report on the form provided by the department, of all vehicles destroyed, and all vehicles received during the month, whether or not such vehicles have been destroyed. This report shall be made in duplicate. The original shall be sent to the department and the duplicate retained for the wrecker's files. If no vehicles are received to destroy during the month, the monthly report must be sent in stating "none." The report shall give such information for vehicles only as the wrecker is required to keep by subsections (1)(a)(i), (ii), (iii), (iv), and (b), above; it shall be accompanied by properly endorsed certificates of title or ((forde) foth-er)) other adequate evidence of ownership(;;) and registration certificates(, and receipts for license plates surrendered to an authorized representative of the department): PROVIDED, That records on acquisitions and sales of vehicle parts need not be included in reports submitted to the department but records shall be kept

for three years from date of purchase and available for inspection.

(3) Identity of vehicles in yard. All vehicles placed in the yard shall be identified by a yard number as assigned in the records with numerals marked so as to be clearly visible and legible. If a part of a vehicle is sold which has the number on it, the vehicle shall be renumbered in another location on the vehicle.

AMENDATORY SECTION (Amending Order DOL 684, filed 5/27/82)

WAC 308-61-260 WRECKERS—SELLING USED VEHICLES. (1) Any motor vehicle wrecker who buys motor vehicles for the purpose of sale in an unaltered condition or as a whole vehicle may sell such vehicles if he holds a vehicle dealer's license.

(2) All vehicles acquired for sale under a vehicle dealer's license which are inoperable at the time of acquisition shall be kept inside the wrecking yard and shall be segregated from the remainder of the operation by a continuous physical barrier.

(3) "Inoperable" as used in this section shall mean a vehicle which does not comply with requirements for vehicles used on public streets with regard((~~{s}~~)) to brakes, lights, tires, safety glass and other safety equipment. However, for purposes of this section, inoperable shall not include a requirement to be currently licensed.

AMENDATORY SECTION (Amending Order 552—DOL, filed 9/7/79)

WAC 308-61-330 HULK HAULER—PROCEDURES FOR ACQUIRING AND SELLING VEHICLES. (1) Supporting acquisition for transport, resale. The hulk hauler may acquire vehicles or hulks for transport and resale to a licensed motor vehicle wrecker or scrap processor if the transferor can furnish proof of ownership, in the form of a certificate of title properly endorsed, from a state issuing a title, or a certificate of registration and notarized bill of sale from a state issuing only a registration certificate. If such evidence of ownership is not available, the following documents may serve to support acquisition or possession by a licensed hulk hauler:

(a) Private persons. Acquisitions from private persons may also be supported by ((~~affidavits of lost or stolen title and authorization[s] to dispose.~~)) an:

(i) Affidavit of lost or stolen title signed by the owner on record with the department, and release of interest from the owner.

(ii) ((Authorization to dispose)) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(b) All licensees other than wreckers. In addition to a properly endorsed title, acquisition from licensees other than wreckers may also be supported by one of the following:

(i) Affidavit of lost or stolen title signed by owners of record with the department, and release of interest from the owner.

(ii) ((Authorization to dispose signed by a law enforcement officer)) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(iii) Affidavit of sale from a registered ((disposer)) tow truck operator.

(c) Licensed vehicle wreckers. Acquisition from wreckers licensed by the department may be supported by obtaining his invoice or bill of sale listing each vehicle by the wrecker's "yard number." Such invoice or bill of sale shall be given to the scrap processor purchasing the vehicles listed therein.

(2) Must possess supporting documentation. Before a hulk hauler may transport any vehicle for resale, he shall have in his possession documents to support lawful acquisition or possession, as enumerated in subsection (1) of this section. Such documentation shall be in his possession at all times while the vehicle is transported.

(3) Handling vehicles. A hulk hauler may not operate as a wrecker or remove parts from vehicles, provided that he may remove the parts necessary to sell vehicle salvage to a licensed scrap processor, e.g., the upholstery, gasoline tank, and tires, so long as such parts are removed on the premises of a licensed wrecker or scrap processor where prior permission is granted or at a location approved by the department.

(4) May sell to licensed wreckers and scrap processors. Vehicles in the possession of a licensed hulk hauler may only be sold to a licensed wrecker or scrap processor.

AMENDATORY SECTION (Amending Order 552—DOL, filed 9/7/79)

WAC 308-61-430 SCRAP PROCESSOR—PROCEDURES FOR ACQUIRING VEHICLES FOR DEMOLITION. (1) Supporting acquisition. A scrap processor may acquire vehicles for demolition if the transferor can furnish proof of ownership, in the form of a certificate of title properly endorsed, from a state issuing a title, or a certificate of registration and notarized bill of sale from a state issuing a registration certificate only. If such evidence of ownership is not available, the following documents may serve to support acquisition or possession by a licensed scrap processor:

(a) Private persons. Acquisition from private persons may also be supported by ((~~affidavits of lost or stolen title and authorizations to dispose.~~)) an:

(i) Affidavit of lost or stolen title and release of interest from the owner.

(ii) ((Authorization to dispose)) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(b) All licensees other than wreckers. Acquisition from licensees other than wreckers may also be supported by one of the following:

(i) Affidavit of lost or stolen title and release of interest from the owner.

(ii) ((Authorization to dispose)) Affidavit of sale from the landowner who has complied with RCW 46.55.230.

(iii) Affidavit of sale from a registered tow truck operator.

(iv) Invoice or bill of sale from wrecker.

(c) Licensed vehicle wreckers. Acquisition from wreckers licensed by the department do not require the detailed supporting documentation otherwise required, provided that the wrecker has made monthly reports of vehicles wrecked or dismantled, or acquired for such

purpose, and has provided an invoice or bill of sale listing each vehicle in the load to be purchased by "yard number." The scrap processor should verify that he is dealing only with currently licensed wreckers; for this purpose, the department will provide lists of licensed wreckers to scrap processors periodically.

(2) Out-of-state vehicles.

(a) Scrap processors may acquire vehicle salvage from out of state provided that the acquisition is supported by appropriate documentation of ownership of each vehicle of the types enumerated in subsection (1); or

(b) Submit an affidavit prepared by the out-of-state hauler certifying his rightful and true possession of the vehicles contained in the bulk shipment and that he has complied with all statutes, rules and regulations relating to such vehicles in the state or province of origin.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-61-050 GROUNDS FOR DENIAL, SUSPENSION, REVOCATION AND, IN THE CASE OF A REGISTERED TOW TRUCK OPERATOR, ALSO A CIVIL FINE—UNLAWFUL PRACTICES.

WSR 88-06-026

ADOPTED RULES

BOARD OF PHARMACY

[Order 210—Filed February 25, 1988]

Be it resolved by the Washington State Board of Pharmacy acting at Seattle, Washington, that it does adopt the annexed rules relating to procedural rules for the conduct of contested cases under chapter 34.04 RCW; and home dialysis program procedures.

This action is taken pursuant to Notice No. WSR 88-03-036 filed with the code reviser on January 19, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Board of Pharmacy as authorized in RCW 18.64.005.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 24, 1988.

By Joseph M. Honda
Chair

NEW SECTION

WAC 360-08-005 PRACTICE AND PROCEDURE CROSS REFERENCE. In order to conform the board's practice and procedure rules to the uniform procedural rules for the conduct of contested cases, the

board has repealed certain practice and procedure rules. The following cross reference will assist in locating the superseding uniform procedural rule.

<u>Repealed Board Rule</u>	<u>Uniform Procedural Rule</u>
WAC 360-08-070	WAC 10-08-080
WAC 360-08-080	WAC 10-08-040
WAC 360-08-090	WAC 10-08-110
WAC 360-08-100	WAC 10-08-110
WAC 360-08-110	WAC 10-08-110
WAC 360-08-120	WAC 10-08-110
WAC 360-08-130	WAC 10-08-110
WAC 360-08-140	WAC 10-08-110
WAC 360-08-410	WAC 10-08-210
WAC 360-08-430	WAC 10-08-130
WAC 360-08-440	WAC 10-08-130
WAC 360-08-450	WAC 10-08-140
WAC 360-08-460	WAC 10-08-140
WAC 360-08-510	WAC 10-08-090

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 360-08-030 APPEARANCE AND PRACTICE BEFORE BOARD—SOLICITATION OF BUSINESS UNETHICAL

WAC 360-08-070 COMPUTATION OF TIME

WAC 360-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES

WAC 360-08-090 SERVICE OF PROCESS—BY WHOM SERVED

WAC 360-08-100 SERVICE OF PROCESS—UPON WHOM SERVED

WAC 360-08-110 SERVICE OF PROCESS—SERVICE UPON PARTIES

WAC 360-08-120 SERVICE OF PROCESS—METHOD OF SERVICE

WAC 360-08-130 SERVICE OF PROCESS—WHEN SERVICE COMPLETE

WAC 360-08-140 SERVICE OF PROCESS—FILING WITH THE BOARD

WAC 360-08-410 FORM AND CONTENT OF DECISIONS IN CONTESTED CASES

WAC 360-08-430 PREHEARING CONFERENCE RULE—AUTHORIZED

WAC 360-08-440 PREHEARING CONFERENCE RULE—RECORD OF CONFERENCE ACTION

WAC 360-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE

WAC 360-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE

WAC 360-08-470 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESS

WAC 360-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS

WAC 360-08-490 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA

WAC 360-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE WITH WAC 360-08-470 or 360-08-480

WAC 360-08-510 CONTINUANCES

NEW SECTION

WAC 360-60-010 HOME DIALYSIS PROGRAM—LEGEND DRUGS. Pursuant to RCW 18.64.257 and RCW 69.41.032, a Medicare-approved dialysis center or facility operating a Medicare-approved home dialysis program may sell, deliver, possess and/or dispense directly to its home dialysis patients in cases or full shelf package lots, if prescribed by a physician, the following legend drugs:

- (a) Sterile heparin, 1000u/ml, in vials;
- (b) Sterile potassium chloride, 2mEq/ml, for injection;
- (c) Commercially available dialysate; and,
- (d) Sterile sodium chloride, 0.9%, for injection in containers of not less than 150ml.

NEW SECTION

WAC 360-60-020 PHARMACIST CONSULTANT. Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and RCW 69.41.032, shall have an agreement with a pharmacist which provides for consultation as necessary. This shall include advice on the drug distribution process to home dialysis patients and on the location used for storage and distribution of the authorized drugs, which shall be reasonably separated from other activities and shall be secure.

NEW SECTION

WAC 360-60-030 RECORDS. (1) A record of shipment shall be attached to the prescriber's order and shall include: the name of the patient, strengths, and quantities of drugs; the manufacturers' names; date of shipment; names of persons who selected, assembled and packaged for shipment; and, the name of the pharmacist or designated individual responsible for the distribution.

(2) Prescription and drug distribution records shall be maintained in accordance with Board of Pharmacy record retention requirements.

NEW SECTION

WAC 360-60-040 QUALITY ASSURANCE. Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and RCW 69.41.032, shall develop a quality assurance program for drug distribution and shall maintain records of drug distribution errors and other problems, including loss due to damage or theft.

WSR 88-06-027
NOTICE OF PUBLIC MEETINGS
THE EVERGREEN STATE COLLEGE
[Memorandum—February 25, 1988]

The March 2 board of trustees' meeting scheduled for 1:30 p.m. in Room 3112 of the Library Building, TESC campus, has been cancelled. There will be no reschedule date.

The next meeting will be April 13.

WSR 88-06-028
ADOPTED RULES
DEPARTMENT OF REVENUE
[Order 88-2—Filed February 26, 1988]

I, Greg Pierce, deputy director of the Department of Revenue, do promulgate and adopt at Olympia, Washington 98504, the annexed rules relating to hazardous substance tax, new section WAC 458-20-252.

This action is taken pursuant to Notice Nos. WSR 87-23-059 and 88-02-012 filed with the code reviser on November 18, 1987, and December 29, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 26, 1988.

By Greg Pierce
Deputy Director

NEW SECTION

WAC 458-20-252 HAZARDOUS SUBSTANCE TAX. (1) Introduction. Under the provisions of chapter 82.22 RCW a hazardous substance tax is imposed, effective January 1, 1988, upon the wholesale value of certain substances and products, with specific credits and exemptions provided. This tax is an excise tax upon the privilege of possessing hazardous substances or products in this state. It is imposed in addition to all other taxes of an excise or property tax nature and is not in lieu of any other such taxes.

(a) RCW 82.22.020 defines certain specific substances as being hazardous and includes other substances by reference to Federal legislation governing such things. It also provides authority to the director of the State Department of Ecology to designate any substances or products as hazardous which could present a threat to human health or the environment. The Department of Ecology, by duly published rule, defines and enumerates hazardous substances and products and otherwise administers the provisions of the law relating to hazardous

and toxic or dangerous materials, waste, disposal, cleanup, remedial actions, and monitoring. (See Chapter 173-340 of the Washington Administrative Code).

(b) Chapter 82.22 RCW consists of the tax provisions relating to hazardous substances and products which are administered exclusively under this section. The tax provisions relate exclusively to the possession of hazardous substances and products. The tax provisions do not relate to waste, releases or spills of any materials, cleanup, compensation, or liability for such things, nor does tax liability under the law depend upon such factors. The incidence or privilege which incurs tax liability is simply the possession of the hazardous substance or product, whether or not such possession actually causes any hazardous or dangerous circumstance.

(c) The hazardous substance tax is imposed upon any possession of a hazardous substance or product in this state by any person who is not expressly exempt of the tax. However, it is the intent of the law that the economic burden of the tax should fall upon the first such possession in this state. Therefor, the law provides that if the tax has not been paid upon any hazardous substance or product the department may collect the tax from any person who has had possession. The amount of tax paid then constitutes a debt owed by the first person having had taxable possession to the person who pays the tax. The provisions of parts (10) and (11) of this section reduce the tax payment obligations of successive possessors of hazardous substances and products to the greatest extent allowable under the law.

(2) Definitions. For purposes of this section the following terms will apply.

(a) "Tax" means the hazardous substance tax imposed by RCW 82.22.030.

(b) "Hazardous substance" means anything designated as such by the provisions of WAC 173-340, administered by the State Department of Ecology, as adopted and thereafter amended. In addition, the law defines this term to include:

(i) any substance that, on January 1, 1988, is a hazardous substance under section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by Public Law 99-499. These substances consist of chemicals and elements in their purest form. Products containing CERCLA chemicals and/or elements as ingredients will not be taxable unless specifically designated as hazardous substances by the Department of Ecology.

(ii) petroleum products (further defined below);

(iii) pesticide products required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); and

(iv) anything else enumerated as a hazardous substance in Chapter 173-340 WAC by the Department of Ecology.

(v) Until April 1, 1988, "hazardous substance" does not include substances or products packaged as a household product and distributed for domestic use.

(c) "Product(s)" means any item(s) containing a combination of ingredients, some of which are hazardous substances and some of which are not hazardous substances.

(d) "Petroleum product" means any plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, asphalt base, liquefied or liquefiable gases, such as butane, ethane and propane, and every other product derived from the refining of crude oil, but the term does not include crude oil.

(i) The term "derived from the refining of crude oil" as used herein, means produced because of and during petroleum processing. "Petroleum processing" includes all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to crude oil or any byproduct of crude oil so that as a result thereof a fuel or lubricant is produced for sale or commercial or industrial use. "Fuel" includes all combustible gases and liquids suitable for the generation of energy. The term "derived from the refining of crude oil" does not mean petroleum products which are manufactured from refined oil derivatives, such as petroleum jellies, cleaning solvents, asphalt paving, etc. Such further manufactured products become hazardous substances only when expressly so designated by the Director of Ecology.

(e) "Possession" means control of a hazardous substance located within this state and includes both actual and constructive possession.

(i) "Control" means the power to sell or use a hazardous substance or to authorize the sale or use by another.

(ii) "Actual possession" occurs when the person with control has physical possession.

(iii) "Constructive possession" occurs when the person with control does not have physical possession.

(f) "Previously taxed hazardous substance" means a hazardous substance upon which the tax has been paid and which has not been remanufactured or reprocessed in any manner.

(i) Remanufacturing or reprocessing does not include the mere repackaging or recycling for beneficial reuse. Rather, these terms embrace activities of a commercial or industrial nature involving the application of skill or labor by hand or machinery so that as a result, a new or different substance or product is produced.

(ii) "Recycling for beneficial reuse" means the recapturing of any used substance or product, for the sole purpose of extending the useful life of the original substance or product in its previously taxed form, without adding any new, different, or additional ingredient or component.

(iii) Example: Used motor oil drained from a crankcase, filtered, and containerized for reuse is not remanufactured or reprocessed. If the tax was paid on possession of the oil before use, the used oil is a previously taxed substance.

(iv) Possessions of used hazardous substances by persons who merely operate recycling centers or collection stations and who do not reprocess or remanufacture the used substances are not taxable possessions.

(g) "Wholesale value" is the tax measure or base. It means:

(i) the price paid by a wholesaler or retailer to a manufacturer, or

(ii) the price paid by a retailer to a wholesaler when the price represents the value at the time of first possession in this state.

(iii) In cases where no sale has occurred, wholesale value means the fair market wholesale value, determined as nearly as possible according to the wholesale selling price at the place of use of similar substances of like quality and character. In such cases the wholesale value shall be the "value of the products" as determined under the alternate methods set forth in WAC 458-20-112.

(iv) It is the intent of the law that the "wholesale value," which is the tax measure, should be as uniform and constant as possible throughout the chain of distribution from manufacture to retail sale. For special tax reporting formulas for retailers, see Part (11) of this section.

(h) "Selling price" means consideration of any kind expressed in terms of money paid or delivered by a buyer to a seller, without any deductions for any costs whatsoever. Bona fide discounts actually granted to a buyer result in reductions in the selling price rather than deductions.

(i) "State," for purposes of the credit provisions of the hazardous substance tax, means:

- (i) the state of Washington,
- (ii) states of the United States or any political subdivisions of such other states,
- (iii) the District of Columbia,
- (iv) territories and possessions of the United States,
- (v) any foreign country or political subdivision thereof.

(j) "Person" means any natural or artificial person, including a business organization of any kind, and has the further meaning defined in RCW 82.04.030.

(i) The term "natural person," for purposes of the tax exemption provided by RCW 82.22.040(2) regarding substances used for personal or domestic purposes, means human beings in a private, as opposed to a business sense.

(k) Except as otherwise expressly defined in this section, the definitions of terms provided in chapters 82.04, 82.08, and 82.12 RCW apply equally for this section. Other terms not expressly defined in these chapters or this section are to be given their common and ordinary meanings.

(3) Tax rate and measure. The tax is imposed upon the privilege of possessing hazardous substances in this state. The tax rate is eight tenths of one percent (.008). The tax measure or base is the wholesale value of the substance, as defined herein.

(4) Exemptions. The following are expressly exempt from the tax:

(a) Any successive possessions of any previously taxed hazardous substances are tax exempt.

(i) Any person who possesses a hazardous substance which has been acquired from any other person who is registered with the department of revenue and doing business in this state may take a written statement certifying that the tax has been previously paid. Such certifications must be taken in good faith and must be in the form provided in the last part of this section. Blanket certifications may be taken, as appropriate, which must be renewed at intervals not to exceed four years. These

certifications may be used for any single hazardous substance or any broad classification of hazardous substances, e.g., "all chemicals."

(ii) In the absence of taking such certifications, the person who possesses any hazardous substance must prove that it purchased or otherwise acquired the substance from a previous possessor in this state and that the tax has been paid.

(iii) This exemption for taxes previously paid is available for any person in successive possession of a taxed hazardous substance even though the previous payment may have been satisfied by the use of credits or offsets available to the previous person in possession.

(iv) Example. Company A brings a substance into this state upon which it has paid a similar hazardous substance tax in another state. Company A takes a credit against its Washington tax liability in the amount of the other state's tax paid. It then sells the substance to Company B, and provides Company B with a Certificate of Previously Taxed Substance. Company B's possession is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) Any possession of a hazardous substance by a natural person for use of a personal or domestic nature rather than a business nature is tax exempt.

(i) This exemption extends to relatives, as well as other natural persons who reside with the person possessing the substance, and also to regular employees of that person who use the substance for the benefit of that person.

(ii) This exemption does not extend to possessions by any independent contractors hired by natural persons, which contractors themselves provide the hazardous substance.

(iii) Examples: Possessions of spray materials by an employee-gardener or soaps and cleaning solvents by an employee-domestic servant, when such substances are provided by the natural person for whose domestic benefit such things are used, are tax exempt. Also, possessions of fuel by private persons for use in privately owned vehicles are tax exempt.

(c) Any possessions of the following substances are tax exempt:

- (i) alumina, natural gas, or petroleum coke;
- (ii) liquid fuel or fuel gas used in processing petroleum;
- (iii) petroleum products that are exported for use or sale outside this state as fuel.

(iv) The exemption for possessions of petroleum products for export sale or use as fuel may be taken by any person within the chain of distribution of such products in this state. To perfect its entitlement to this exemption the person possessing such substance(s) must take from its buyer or transferee of the substance(s) a written certification in substantially the following form:

Certificate of Tax Exempt Export Petroleum Products

I hereby certify that the petroleum products specified herein, purchased by or transferred to the undersigned, from (seller or transferor), are for export for use or sale outside Washington state as fuel. I will become liable for

and pay any hazardous substance tax due upon all or any part of such products which are not so exported outside Washington state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. _____ Type of Business _____
(If applicable)

Firm Name _____ Registered Name _____
(If different)

Authorized Signature _____

Title _____

Identity of Petroleum Product _____
(Kind and amount by volume)

Date _____

(v) Each successive possessor of such petroleum products must, in turn, take a certification in this form from any other person to whom such petroleum products are sold or transferred in this state. Failure to take and keep such certifications as part of its permanent records will incur hazardous substance tax liability by such sellers or transferors of petroleum products.

(vi) Persons in possession of such petroleum products who themselves export or cause the exportation of such products to persons outside this state for further sale or use as fuel must keep the proofs of actual exportation required by WAC 458-20-193, Parts A or C. Example: Carriers who will purchase fuel in this state to be taken out of state in the fuel tanks of any ship, airplane, truck, or other carrier vehicle will provide their fuel suppliers with this certification. Then such carriers will directly report and pay the tax only upon the portion of such fuel actually consumed by them in this state. (With respect to fuel brought into this state in fuel tanks and partially consumed here, see the credit provisions of Part (5)(b) of this section.

(d) Persons or activities which the state is prohibited from taxing under the United States Constitution are tax exempt.

(i) This exemption extends to the U.S. Government, its agencies and instrumentalities, and to any possession the taxation of which has been expressly reserved or preempted under the laws of the United States.

(ii) The tax will not apply with respect to any possession of any hazardous substance purchased, extracted, produced or manufactured outside this state which is shipped or delivered into this state until the interstate transportation of such substance has finally ended in this state. Thus, out of state sellers or producers need not pay the tax on substances shipped directly to customers in this state. The customers must pay the tax upon their first possession unless otherwise expressly exempt.

(iii) Out of state sellers or producers will be subject to tax upon substances shipped or delivered to warehouses or other in state facilities owned, leased, or otherwise controlled by them.

(iv) However, the tax will not apply with respect to possessions of substances which are only temporarily stored or possessed in this state in connection with through, interstate movement of the substances from points of origin to points of destination both of which are outside of this state.

(e) Any possession of any hazardous substances which were already possessed before January 1, 1988 are tax exempt. This exemption extends to current inventories and stocks of hazardous substances on hand on January 1, 1988 when the tax first takes effect. The intent is that the hazardous substance tax has no retroactive application.

(i) It is the intent, under the law, that this exemption will apply to the substances throughout their succeeding chain of distribution, in the possession of any person, for the life of those substances. That is, hazardous substances already possessed as of December 31, 1987 will not incur tax liability in the possession of any person at any time.

(ii) Persons who already possess any hazardous substances on December 31, 1987 must use a first-in-first-out (FIFO) accounting method for depleting such supplies, supported by their purchase, sales, or transfer records.

(iii) Because this exemption will follow the hazardous substances into the possession of any subsequent or succeeding possessors, sellers of such exempt current inventory substances should provide their registered buyers in this state with the Certificate of Previously Taxed Hazardous Substance set forth in Part (15) of this section.

(5) Credits. There are three distinct kinds of tax credits against liability which are available under the law.

(a) A credit may be taken by any manufacturer or processor of a hazardous substance produced from ingredients or components which are themselves hazardous substances, and upon which the hazardous substance tax has been paid by the same person or is due for payment by the same person.

(i) Example. A manufacturer possesses hazardous chemicals which it combines to produce an acid which is also designated as a hazardous substance or product. When it reports the tax upon the wholesale value of the acid it may use a credit to offset the tax by the amount of tax it has already paid or reported upon the hazardous chemical ingredients or components. In this manner the intent of the law to tax hazardous substances only once is fulfilled.

(ii) Under circumstances where the hazardous ingredient and the hazardous end product are both possessed by the same person during the same tax reporting period, the tax on the respective substances must be computed and the former must be offset against the latter so that the tax return reflects the tax liability after the credit adjustment.

(iii) This credit may be taken only by manufacturers who have the first possession in this state of both the hazardous ingredients and the hazardous end product.

(b) A credit may be taken in the amount of the hazardous substance tax paid upon the value of fuel which is carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(i) The purpose of this credit is to extend the same tax exclusion which exists for exported fuel (part (4)(c) above) to fuel which is possessed and partly used in this state before crossing the boundaries of this state in any

fuel tank attached to any transportation vehicle powered by such fuel.

(ii) The credit may be claimed only for the amount of tax actually paid on the fuel, not the amount representing the value of the fuel.

(iii) The nature of this credit is such that it generally has application only for interstate and foreign carriers whose fuel tanks contain fuel which was not first possessed by some other person in this state who paid the tax. The credit is limited to the person who carries the fuel from this state and cannot be claimed by any person who previously possessed the fuel in this state and paid the tax.

(iv) Interstate/foreign carriers who purchase fuel in this state do not require, and may not use this credit in respect to such locally purchased fuel. Instead, the export fuel exemption set forth at part (4)(c)(iii) will be used. Thus, this fuel-in-tanks credit is applicable only for fuel brought into this state in fuel tanks, part of which is then taken out of this state in the fuel tanks. The intent is that the tax will apply only to so much of such fuel as is consumed by such carriers in this state.

(v) Example. An airline company enters this state with its fuel tanks partially full of fuel which has not been possessed and taxed earlier in this state. The fuel in the tanks is, therefor, first possessed in this state by the airline company, has not been previously taxed, and the possession is not expressly tax exempt. Only the amount of fuel actually used in this state is subject to the tax because this credit may be taken for the tax paid on the portion of fuel allocated to use after the airplane exits this state.

(c) A credit may be taken against the tax owed in this state in the amount of any other state's hazardous substance tax which has been paid by the same person measured by the wholesale value of the same hazardous substance.

(i) In order for this credit to apply, the other state's tax must be significantly similar to Washington's tax in all its various respects. The taxable incident must be possessing the substance; the tax purpose must be that the substance is hazardous; and the tax measure must be stated in terms of the wholesale value of the substance, without deductions for costs of doing business, such that the other state's tax does not constitute an income tax or added value tax.

(ii) This credit may be taken for the amount of any other state's qualifying tax which has actually been paid either before or after Washington State's tax is paid.

(iii) The amount of credit is limited to the amount of tax paid in this state upon possession of the same hazardous substance in this state. Also, the credit may not be applied against any tax paid or owed in this state other than the hazardous substance tax imposed by RCW 82.22.030.

(iv) Exchange agreements under which hazardous substances or products possessed in this state are exchanged through any accounts crediting system with like substances possessed in other states do not qualify for this credit. The substance taxed in another state, and for which this credit is sought, must be actually, physically possessed in this state.

(v) Persons claiming this credit must maintain records necessary to verify that the credit taking qualifications have been met. See WAC 458-20-19301, part (9) for recordkeeping requirements. The department of revenue will publish an Excise Tax Bulletin listing other states' taxes which qualify for this credit.

(6) Newly defined hazardous substances. The Director of Ecology may identify and designate things as being hazardous substances after January 1, 1988. Also, things designated as hazardous substances may be deleted from this definition. Such actions are done by the adoption and subsequent periodic amendments to rules of the Department of Ecology under the Washington Administrative Code.

(a) The law allows the addition or deletion of substances as hazardous by rule amendments, no more often than twice in any calendar year.

(b) When such definitions are changed, they do not take effect for tax purposes until the first day of the following month which is at least thirty days after the effective date of rule action by the Department of Ecology.

(i) Example. The Department of Ecology adopts or amends the rule by adding a new substance and the effective date of the amendment is January 15. Possession of the substance does not become taxable until March 1.

(ii) The exemption for current inventories and stocks on hand explained at part (5)(e) of this section does not apply to possessions of hazardous substances newly added by rule. The tax is owed by any person who has possession of the newly designated hazardous substance upon the tax effective date as explained herein. It is immaterial that the person in possession on that date was not the first person in possession of the substance in this state before it was designated as hazardous.

(7) Recurrent tax liability. It is the intent of the law that all hazardous substances possessed in this state should incur this tax liability only once unless they are expressly exempt. This is true of hazardous ingredients of products as well as the manufactured end product itself, if designated as a hazardous substance. The exemption for previously taxed hazardous substances does not apply to "products" which have been manufactured or remanufactured simply because an ingredient or ingredients of that product may have already been taxed when possessed by the manufacturer. Instead of an exemption, manufacturers in possession of both the hazardous ingredient(s) and end product(s) should use the credit provision explained at Part (5)(a) of this section.

(a) However, the term "product" is defined to mean only an item or items which contain a combination of both hazardous substance(s) and non-hazardous substance(s). The term does not include combinations of only hazardous substances. Thus, possessions of substances produced by combining other hazardous substances upon all of which the tax has previously been paid will not again be taxable.

(b) When any hazardous substance(s) is first produced during and because of any physical combination or chemical reaction which occurs in a manufacturing or processing activity, the intermediate possession of such substance(s) within the manufacturing or processing

plant is not considered a taxable possession if the substance(s) becomes a component or ingredient of the product being manufactured or processed or is otherwise consumed during the manufacturing or processing activity.

(i) However, when any intermediate hazardous substance is first produced during a manufacturing or processing activity and is withdrawn for sale or transfer outside of the manufacturing or processing plant, a taxable first possession occurs.

(c) Concentrations or dilutions for shipment or storage. The mere addition or withdrawal of water or other nonhazardous substances to or from hazardous substances designated under CERCLA or FIFRA for the sole purpose of transportation, storage, or the later manufacturing use of such substances does not result in any new hazardous product.

(8) How and when to pay tax. The tax must be reported on a special line of the combined excise tax return designated "hazardous substances." It is due for payment together with the timely filing of the return upon which it is reported, covering the tax reporting period during which the hazardous substance(s) is first possessed within this state. Any person who is not expressly exempt of the tax and who possesses any hazardous substance in this state, without having proof that the tax has previously been paid on that substance, must report and pay the tax.

(a) It may be that the person who purchases a hazardous substance will not have billing information from which to determine the wholesale value of the substance when the tax return for the period of possession is due. In such cases the tax is due for payment no later than the next regular reporting due date following the reporting period in which the substance(s) is first possessed.

(b) The taxable incident or event is the possession of the substance. Tax is due for payment by the purchaser of any hazardous substance whether or not the purchase price has been paid in part or in full.

(c) Special provision for manufacturers, refiners, and processors. Because it is not possible to know, at the time of first possession in this state, whether a hazardous substance may be used or sold in a manner which would entitle the first possession to tax exemption, manufacturers, refiners, and processors who possess hazardous substances are required to report the tax and take any available exemptions and credits only at the time that such hazardous substances are withdrawn from storage for purposes of their sale, transfer, remanufacture, or consumption.

(9) How and when to claim credits. Credits should be claimed and offset against tax liability reported on the same excise tax return when possible. The tax return form provides a line for reporting tax on hazardous substances and a line for taking credits as an offset against the tax reported. It is not required that any documents or other evidences of entitlement to credits be submitted with the report. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

(10) Successive possessions of the same hazardous substance. The law provides that the department of revenue may collect the tax from any person who has had possession of a hazardous substance in this state, if the tax has not already been paid by any person. The law also provides that the tax measure, wholesale value, should be as uniform as possible throughout the chain of possession. Wholesale value is determined by the wholesale selling price.

(a) When tax is collected by the department from any person having successive possession of a substance, because no tax was previously paid on that same substance, the wholesale selling price means the price paid to any manufacturer or wholesaler who first had possession in this state.

(b) In determining this wholesale selling price, the charges for shipping, delivery, warehousing, or any other such charges representing cost increments accrued after the first wholesale sale in this state are not included. Thus, the tax collected from any person having successive possession should be no greater than what the tax would have been if collected from the person who had first possession of the substance in this state.

(11) Formulary or percentage tax reporting. The law provides that when the burden of the tax falls upon retailers, when they are the first persons in possession in this state, the tax burden should be equal to the same burden when it falls upon manufacturers or first level wholesalers earlier in the distribution chain. Because the tax measure is the wholesale value of the substance when first possessed in this state, that measure should remain constant regardless of who is the first person in possession. This is true even when the first person in possession is a retailer or any other purchaser or transferee of a hazardous substance from any out-of-state seller or transferor other than the out-of-state manufacturer of the substance.

(a) It may be that the retailer or other importer first in possession will not have access to records reflecting the manufacturer's wholesale value of a hazardous substance. RCW 82.22.030 provides that in such cases the tax may be imposed upon a "percentage of sales" for any class of retailer so as to equalize the tax burden for all persons in possession of hazardous substances. Therefor, in order to derive a tax measure which will reasonably approximate the manufacturer's wholesale selling price, retailers or other importers who are the first persons in possession of hazardous substances in this state may report and pay the tax under one of the following methods:

(i) measured by manufacturer's wholesale value as shown upon any actual accounting records available; or,

(ii) measured by sixty percent (60%) of gross receipts from retail sales of hazardous substances which have not been previously taxed; or,

(iii) measured by the possessor's cost, less twenty percent (20%), of all such substances not previously taxed; or,

(iv) under circumstances where none of the above methods fairly reflects what the wholesale value would have been at the time and place of first possession by a manufacturer in this state, then the retailer may submit

a percentage of sales formula for prior approval by the department of revenue.

(v) It is not the intent of these formulary tax measurement provisions to derive any tax measure below or less than the manufacturer's wholesale value.

(b) Special provision for consumer/first possessors. Under circumstances where the consumer is the first person in possession of any non-exempt hazardous substance (e.g., substances imported by the consumer), or where the consumer is the person who must pay the tax upon substances previously possessed in this state (fuel purchased for export in fuel tanks) the consumer's tax measure will be sixty percent (60%) of its retail purchase price. This provision, again, is intended to equalize the tax measure for all taxable persons possessing hazardous substances.

(12) Hazardous substances or products on consignment. Consignees who possess hazardous substances or products in this state with the power to sell such things, in their own name or on behalf of a disclosed or undisclosed consignor are liable for payment of the tax. The exemption for previously taxed substances is available for such consignees only if the consignors have paid the tax and the consignee has retained the certification or other proof of previous tax payment referred to in part (4)(i) and (ii) of this section. Possession of consigned hazardous substances by a consignee does not constitute constructive possession by the consignor.

(13) Hazardous substances untraceable to source. Various circumstances may arise whereby a person will possess hazardous substances in this state, some of which have been previously taxed in this or other states and some of which may not. In such cases the formulary tax reporting of part (11) of this section may be used, including the request for a special ruling by the department of revenue.

(a) Example. Fungible petroleum products from sources both within and outside this state are commingled in common storage facilities. Formulary reporting is appropriate based upon volume percentages reflecting the ratio of in-state production to out-of-state production or other form of acquisition.

(14) Administrative provisions. The provisions of chapter 82.32 RCW regarding due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all such general administrative provisions apply equally to the hazardous substance tax. Special requested rulings covering unique circumstances generally will be issued within sixty days from the date upon which complete information is provided to the department of revenue.

(15) Certification of previously taxed hazardous substance. Certification that the hazardous substance tax has already been paid by a person previously in possession of the substance(s) may be taken in substantially the following form:

I hereby certify that this purchase – all purchases of _____
(omit one)
by _____
(identify substance(s) purchased) (name of purchaser)
who possesses registration no. _____
(buyer's number, if registered)

consists of the purchase of hazardous substance(s) or product(s) upon which the tax imposed by RCW 82.22-.030 has been paid in full by a person previously in possession of the substance(s) or product(s) in this state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion, and with the full knowledge and agreement that the undersigned hereby assumes any liability for hazardous substance tax which has not been previously paid because of possession of the hazardous substance(s) or product(s) identified herein.

- The registered seller named below personally paid the tax upon possession of the hazardous substances.
- A person in possession of the hazardous substances prior to the possession of the registered seller named below paid the tax.
- This certificate is being used to cover tax exempt existing inventories which were possessed in this state on December 31, 1987.
(Check the appropriate line.)

Name of registered seller _____ Registration No. _____

Firm name _____ Address _____

Type of business _____

Authorized signature _____ Title _____
Date _____

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-06-029
EMERGENCY RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Order 88-1—Filed February 26, 1988]

I, Ralph C. Ruff, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at 406 South Water, Olympia, WA, the annexed rules relating to size and length of time in business, WAC 326-20-090.

I, Ralph C. Ruff, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule is in direct conflict with the requirement that the office adopt a definition of small business concern, pursuant to chapter 328, Laws of 1987.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 39.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 26, 1988.

By Ralph C. Ruff
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 326-20-090 SIZE AND LENGTH OF TIME IN BUSINESS

WSR 88-06-030

ADOPTED RULES

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Order 88-2—Filed February 26, 1988]

I, Ralph C. Ruff, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at 406 South Water, Olympia, WA, the annexed rules relating to size and length of time in business, WAC 326-20-090.

This action is taken pursuant to Notice No. WSR 87-20-088 filed with the code reviser on October 7, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 39.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 26, 1988.

By Ralph C. Ruff
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAc 326-20-090 SIZE AND LENGTH OF TIME IN BUSINESS

WSR 88-06-031

ADOPTED RULES

LOTTERY COMMISSION

[Order 108—Filed February 26, 1988]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New	WAC 315-11-310	Definitions for Instant Game Number 31 ("Three of a Kind").
New	WAC 315-11-311	Criteria for Instant Game Number 31.
New	WAC 315-11-312	Ticket validation requirements for Instant Game Number 31.
Amd	WAC 315-20-090	Form and content of decisions in contested cases and proposed orders.

This action is taken pursuant to Notice No. WSR 88-02-062 filed with the code reviser on January 6, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 12, 1988.

By Scott Milne
Deputy Director

AMENDATORY SECTION (Amending Order 96, filed 12/16/86)

WAC 315-20-090 FORM AND CONTENT OF DECISIONS IN CONTESTED CASES AND PROPOSED ORDERS. Whenever the director considers that any matter of proceeding will be best handled by the issuance of a proposed order by the director or a proposed or initial decision is issued by an administrative law judge, such an order shall be issued and the parties so notified. Upon receipt of such notice and proposed order, any party may file exceptions to the same within ten days after the date of the service of the proposed or initial order, unless a greater or lesser time for response is stated in the proposed or initial order or an extension of time is granted by the director for good cause shown. A copy of the exceptions shall be served upon all other parties who have appeared in the cause, or their attorneys of record, together with proof of such service in accordance with the rules governing service of process. Any party may answer the exceptions so filed and served within ten days after service of said exceptions upon him or her. Briefs may accompany the exceptions or answers thereto and shall be filed and served in the same manner. The director, in his or her discretion, may allow the parties to present oral argument. After a full consideration of the proposed order, the exceptions and the answers to exceptions so filed ((and)), briefs and oral argument, if allowed, the director may affirm the proposed or initial order by service of an order of affirmation upon the parties, or, if ((it)) he or she deems the exception well taken, may revise the proposed order and issue a final order differing from the proposed order. ((The director, in his or her discretion, may allow the parties to present oral arguments.)) If no party files exceptions in a timely manner to a proposed or initial order, that order shall be final.

NEW SECTION

WAC 315-11-310 DEFINITIONS FOR INSTANT GAME NUMBER 31 ("THREE OF A KIND"). (1) Play symbols: The following are the "play symbols:" "A," "K," "Q," "J," "10," "9," and "8." One of these play symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 31, the captions which correspond with and verify the play symbols are:

<u>PLAY NUMBER</u>	<u>CAPTION</u>
A	ACE
K	KNG
Q	QUE
J	JAC
10	TEN
9	NIN
8	EGT

(3) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) Pack-ticket number: The ten-digit number of the form 0000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 31 constitute the "pack number" which starts at 0000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners below \$25. For Instant Game Number 31, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of eight locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TYT	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-311 CRITERIA FOR INSTANT GAME NUMBER 31. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) Winning tickets: Having the following pay symbols in any 3 of 6 spots beneath the removable covering on the front of the ticket shall win the following prize:

Three 8's	- Win \$1.00
Three 9's	- Win \$2.00
Three 10's	- Win \$5.00
Three J's	- Win \$10.00
Three Q's	- Win \$20.00
Three K's	- Win \$50.00
Three A's	- Win \$500.00

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 31 set forth in WAC 315-11-312, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 31; and/or

(b) Vary the number of tickets sold in Instant Game Number 31 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-312 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 31. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 31 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Each of the six play symbols and the prize symbol must have a caption underneath, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Ealing 15 point font
Captions	5 x 12 Matrix font
Pack-Ticket Number	9 x 12 Matrix font
Validation Number	9 x 12 Matrix font
Retail Verification Code	7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-310(1) and each of the captions must be exactly one of those described in WAC 315-11-310(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

WSR 88-06-032
EMERGENCY RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Order 343—Filed February 26, 1988]

Be it resolved by the State Wildlife Commission acting at Olympia, Washington, that it does adopt the annexed rules relating to amendment to 1987-88 Washington game fish regulations—Lenice, Merry, Nunnally lakes, adopting WAC 232-28-61619.

We, the State Wildlife Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Lenice, Merry, and Nunnally lakes are scheduled for rehabilitation on March 29-30, 1988. Adoption of this additional fishing season will allow recreational opportunity on remaining fish before rehabilitation.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 24, 1988.

By Dr. James M. Walton
Chairman, Wildlife Commission

NEW SECTION

WAC 232-28-61619 AMENDMENT TO 1987-88 WASHINGTON GAME FISH REGULATIONS—LENICE, MERRY, NUNNALLY LAKES. Notwithstanding the provisions of WAC 232-28-616, effective 12:01 a.m. on March 1, 1988 to 11:59 p.m. on March 30, 1988, the game fish regulations for Lenice, Merry, Nunnally lakes will be as follows:

+LENICE LAKE: Mar. 1-Mar. 30 season.
TROUT – catch limit – 1. Selective Fishery Regulations, see page 3.

MERRY LAKE: Mar. 1-Mar. 30 season.
TROUT – catch limit – 1. Selective Fishery Regulations, see page 3.

+NUNNALLY LAKE: Mar. 1-Mar. 30 season. TROUT – catch limit – 1. Selective Fishery Regulations, see page 3. CLOSED WATERS: outlet stream of Nunnally Lake.

Lenice, Merry, and Nunnally lakes are scheduled for rehabilitation March 29-30, 1988. These lakes will have no size, catch or possession limits on the day of their rehabilitation and for 10 days following. Dip nets are allowed for the taking of fish during this period. All fishing license requirements apply.

WSR 88-06-033
EMERGENCY RULES
DEPARTMENT OF WILDLIFE
(Wildlife Commission)
[Order 344—Filed February 26, 1988]

Be it resolved by the State Wildlife Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to amendment to 1987-88 Washington game fish regulations—Quarry Pond (Walla Walla County), adopting WAC 232-28-61620.

We, the State Wildlife Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Quarry Pond is part of the '88-90 regulations to open on March 1, 1989. However, this year, two of the Tucannon impoundments will be out on the opener—Spring Lake was drawn down for repairs last summer, and will not be filled by March 1 this year. Deer Lake has been drained for repair and will not be in service this year. Opening Quarry Pond this year on March 1 will help to ease pressure on the remaining six Tucannon impoundments which open on March 1, and will provide additional recreational opportunity.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 77.12.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 24, 1988.
By Dr. James M. Walton
Chairman, Wildlife Commission

NEW SECTION

WAC 232-28-61620 AMENDMENT TO 1987-88 WASHINGTON GAME FISH REGULATIONS—QUARRY POND (WALLA WALLA COUNTY). Notwithstanding the provisions of WAC 232-28-616, effective 12:01 a.m. on March 1, 1988 to 11:59 p.m. on October 31, 1988, the game fish regulations for Quarry Pond in Walla Walla County.

+QUARRY POND (Walla Walla Co.):
Mar. 1-Oct. 31 season. Fishing from any floating device prohibited.

WSR 88-06-034
PROPOSED RULES
DEPARTMENT OF LICENSING
(Board of Massage)
[Filed February 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Massage intends to adopt, amend, or repeal rules concerning the amending of WAC 308-51-010, 308-51-050, 308-51-070, 308-51-100, 308-51-110, 308-51-125 and 308-51-140; adding new section WAC 308-51-220; and repealing WAC 308-51-020, 308-51-040, 308-51-060, 308-51-080 and 308-51-150;

that the agency will at 10:00 a.m., Wednesday, April 20, 1988, in the West Coast Sea-Tac Hotel, Tacoma Room, 18200 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.108.025.

The specific statute these rules are intended to implement is RCW 18.108.025.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1988.

Dated: February 25, 1988
By: Robert Van Schoorl
Assistant Director

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Massage.

Title: WAC 308-51-010 Applications; 308-51-050 Equipment and sanitation; 308-51-070 Communicable disease control; 308-51-100 Scope of examination; 308-51-110 Grading of examinations; 308-51-125 Examination appeal procedures; 308-51-140 Special examination; 308-51-220 Reexamination for assurance of competency; 308-51-020 Licenses; 308-51-040 Denial, suspension or revocation of license; 308-51-060 Facility standards; 308-51-080 Inspection of massage premises; and 308-51-150 Massage business licensee reports.

Description of Purpose: To amend current sections to be up to date with the practice of massage therapy. To repeal sections no longer regulated by the Massage Board. To add a new section outlining reexamination for assurance of competency.

Statutory Authority: RCW 18.108.025.

Summary and Purpose of Rules: New section WAC 308-51-220, to outline the conditions under which a person will have to take the massage exam for assurance of competency; repealing WAC 308-51-020, 308-51-040, 308-51-060, 308-51-080 and 308-51-150, these areas are no longer under the regulation of the Massage

Board; and amending sections WAC 308-51-010, 308-51-050, 308-51-070, 308-51-100, 308-51-110, 308-51-125 and 308-51-140, to delete unnecessary language and update the rules to be in line with the current practice of massage therapy.

Responsible Personnel: In addition to the Board of Massage, the following professional programs management staff has knowledge of and responsibility for drafting, implementing and enforcing the rules: Patti Rathbun, Program Manager, Department of Licensing, P.O. Box 9012, Olympia, WA 98504-8001, (206) 753-3199 comm, (206) 234-3199 scan.

Proponents: The Washington State Board of Massage.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court action.

Small Business Economic Impact Statement: Not required and not provided in that these rules do not impact small business as that term was defined by RCW 19.85.020.

Chapter 308-51 WAC
**MASSAGE ((BUSINESSES AND MASSAGE OPERATORS—
LICENSING)) PRACTITIONERS**

AMENDATORY SECTION (Amending Order PL 501, filed 12/13/84)

WAC 308-51-010 APPLICATIONS. (1) Application forms for licensure shall be prepared by the director and shall provide for the statement of all information required for the license in question. An applicant ((for the issuance or renewal of a massage operator's license and/or a massage business license)) shall be required to furnish to the director ((with two)) a current photograph((s)) of passport size, approximately two inches by two inches, with the original application((; or one current photograph with each application for renewal,)) and satisfactory evidence to establish that all requirements ((for off)) for the license have been fulfilled by the applicant, including the requirement that ((he/she)) the applicant is of good moral character and ((has not been convicted of, or forfeited bond for, a crime involving lewdness or moral turpitude or a crime involving possession, use, or distribution of any controlled substance except marihuana:)).

(2) The term "applicant" as used in chapter 280, Laws of 1975 1st ex sess. and chapter 18.108 RCW, relating to massage business license, is defined to include and shall be applied as follows to:

- (a) The owner, in case of sole proprietorship.
- (b) All partners, in case of a general or limited partnership.
- (c) A corporation, which may apply through its chief executive officer)) is not in violation of chapter 18.130 RCW.

AMENDATORY SECTION (Amending Order PL 231, filed 10/30/75)

WAC 308-51-050 EQUIPMENT AND SANITATION. (1) All ((establishments giving)) practitioners utilizing hydrotherapies including but not limited to cabinet, vapor or steam baths, whirlpool, hot tub or tub baths shall ((be equipped with)) have available adequate shower facilities.

(2) All cabinets, showers, tubs, basins, massage or steam tables, hydrotherapy equipment, and all other fixed equipment used shall be thoroughly cleansed and shall be rendered free from harmful organisms by the application of an accepted bactericidal agent.

(3) Combs, brushes, shower caps, mechanical ((and)), massage and hydrotherapy instruments, or bathing devices that come in contact with the body shall be sterilized or disinfected by modern and approved methods and instruments. Devices, equipment or parts thereof having been used on one person shall be sterilized or disinfected before being used on another person.

(4) Impervious sheeting shall cover, full length, all massage tables or pads, directly under fresh sheets and linens or disposable paper sheets.

(5) All single service materials and clean linen such as sheets, towels, gowns, pillow cases and all other linens used in the practice of massage, shall be furnished by the ((licensee)) practitioner for the use

of each ((individual patron)) client. Linens shall be stored in a sanitary manner.

(6) All towels and linens used for one person shall be laundered or cleaned before they are used by any other person.

(7) All soiled linens shall be immediately placed in a covered receptacle.

(8) Soap and clean towels shall be provided by the ((licensee)) practitioner for use ((of)) by clients and employees.

(9) All equipment shall be clean, well maintained and in good repair.

AMENDATORY SECTION (Amending Order PL 231, filed 10/30/75)

WAC 308-51-070 COMMUNICABLE DISEASE CONTROL.

(1) Persons suffering from infectious or contagious diseases shall not be treated by any licensed massage ((business or massage operator)) practitioner.

(2) Any person known to be infected with any contagious disease, or to be a carrier of such disease, or who has an infected wound or open lesion on any exposed portions of his or her body, shall be excluded from practicing massage. Any ((owner or manager)) practitioner who has reason to suspect that ((any employee)) one of their employees has contracted a communicable disease shall immediately require the individual to have an examination by his or her personal physician.

AMENDATORY SECTION (Amending Order PL 501, filed 12/13/84)

WAC 308-51-100 SCOPE OF EXAMINATION.

(1) The examination for a massage ((operator's)) practitioner's license shall, except as noted in ((subparagraph)) subsection (2) ((below)) of this section, consist of written questions as well as a practical demonstration ((that will require the applicant to perform a massage or partial massage upon another person and which may include oral questions)) of massage therapy.

(2) An applicant handicapped by blindness will not be subject to a written examination. A blind applicant will be asked ((oral)) questions orally to appropriately test the range and depth of his/her knowledge of the subjects shown in ((subparagraph)) subsection (3) ((below)) of this section.

(3) ((Written and oral)) Questions will be sufficient in number to satisfy the board of massage ((examining board)) that the applicant has been given an adequate opportunity to express his or her knowledge relating to ((the following)) subjects as ((they pertain to the practice of massage)).

(a) Anatomy and physiology;
 (b) Hydrotherapy;
 (c) Hygiene;
 (d) First aid;
 (e) Massage theory, practice, and physiology of massage;

((f) Symptomatology (only as it pertains to contraindications of massage), and

((g) The law and rules of the board relating to massage (i.e., chapter 18.108 RCW and chapter 308-51 WAC)) stated in RCW 18.108.073(2).

(4) The practical demonstration of massage will be conducted before the examiner(s) and the applicant will be required to perform ((the massage treatment or techniques as directed)) massage therapy. The following ((elements)) will be ((observed)) evaluated:

- ((a)) Oral questions;
- ((b)) Contact;
- ((c)) Draping;
- ((d)) Effleurage;
- ((e)) Friction;
- ((f)) Petrissage;
- ((g)) Pressure;
- ((h)) Professional manner;
- ((i)) Rhythm;
- ((j)) Swedish gymnastics, to include both active and passive exercise;
- ((k)) Tapotement;
- ((l)) Use of lubricants;
- ((m)) Vibration;
- ((n)) Nerve strokes, and
- ((o)) Muscle demonstration(s)) (a) Professional manner,
- ((b)) Lubrication,
- ((c)) Overall demonstration of work: Pressure, rhythm, smoothness, organization,

- (d) Interaction with client,
- (e) Effleurage,
- (f) Petrissage,
- (g) Friction,
- (h) Vibration,
- (i) Tapotement,
- (j) Joint demonstration and Swedish gymnastics,
- (k) Specific muscle demonstration,
- (l) Client endangerment,
- (m) Draping and turning.

AMENDATORY SECTION (Amending Order PL 501, filed 12/13/84)

WAC 308-51-110 GRADING OF EXAMINATIONS.

((+)) The grading of all written examinations, and of oral questions given in lieu thereof, will be based upon a possible score of 100% and the minimum passing score shall be 70%.

((+)) The grading of the practical demonstration and the oral questions given each applicant during such demonstration will be based upon a possible score of 100% and the minimum passing score shall be 70%.

((+))) Each applicant must obtain a grade of 70((%)) or better on each portion of the examination, i.e., written (or oral in lieu of written), and practical demonstration, before being considered by the board to be technically qualified for licensing as a massage ((operator)) practitioner.

AMENDATORY SECTION (Amending Order PM 685, filed 10/15/87)

WAC 308-51-125 EXAMINATION APPEAL PROCEDURES.

(1) Any candidate who takes the state examination for licensure and does not pass either the written examination or the practical examination, may request review of the results of either examination by the Washington state board of massage.

(a) The board will not modify examination results unless the candidate presents clear and convincing evidence of error in the examination content or procedure, or bias, prejudice or discrimination in the examination process.

(b) The board will not consider any challenges to examination scores unless the total of the potentially revised score would result in issuance of a license.

(2) The procedure for requesting an informal review of examination results is as follows:

(a) The request must be in writing and must be received by the department within ((30)) thirty days of the ((postmark)) date on the letter of notification of examination results sent to the candidate.

(b) The following procedures apply to an appeal of the results of the written examination.

(i) In addition to the written request required in (a) ((above)) of this subsection, the candidate must appear personally in the department office in Olympia for an examination review session. The candidate must contact the department to make an appointment for the exam review session.

(ii) The candidate's incorrect answers will be available during the review session. The candidate will be given a form to complete in defense of the examination answers. The candidate must specifically identify the challenged questions on the examination and must state the specific reason(s) why the candidate believes the results should be modified.

(iii) The candidate will be allowed one-half the time originally allotted to take the examination for this review session.

(iv) The candidate may not bring in any resource material for use while completing the informal review form.

(v) The candidate will not be allowed to remove any notes or materials from the office upon completing the review session.

(c) The following procedures apply to an appeal of the results of the practical examination.

(i) In addition to the written request required in (a) ((above)) of this subsection, the candidate must, within ((30)) thirty days of the ((postmark)) date on the letter of notification of exam results, request in writing a breakdown of the candidate's scores in the various areas of the examination.

(ii) The candidate will be sent the breakdown and will also be provided a form to complete in defense of the candidate's examination performance. The candidate must complete the form and specifically identify the challenged portion(s) of the examination and must state

the specific reason(s) why the candidate believes the results should be modified. This form must be returned to the department within ((+5)) fifteen days of the ((postmark)) date on the letter of breakdown sent to the candidate.

(d) The board will schedule a closed session meeting to review the examinations, score sheets and forms completed by the candidate. The candidate will be notified in writing of the board decision.

(i) The candidate will be identified only by candidate number for the purpose of this review.

(ii) Letters of referral or requests for special consideration will not be read or considered by the board.

(e) Any candidate who is not satisfied with the results of the informal examination review may request a formal hearing before the board to challenge the examination results.

(3) The procedures for requesting a formal hearing are as follows:

(a) The candidate must complete the informal review process before requesting a formal hearing.

(b) The request for formal hearing must be received by the department within twenty days of the ((postmark)) date on the notice of the results of the board's informal review.

(c) The written request must specifically identify the challenged portion(s) of the examination and must state the specific reason(s) why the candidate believes the examination results should be modified.

(d) Candidates will receive at least twenty days notice of the time and place of the formal hearing.

(e) The hearing will be restricted to the specific portion(s) of the examination the candidate has identified in the request for formal hearing.

(f) The formal hearing will be conducted pursuant to the Administrative Procedure Act, chapter 34.04 RCW.

(g) The candidate will be notified in writing of the board decision.

AMENDATORY SECTION (Amending Order PL 248, filed 5/25/76)

WAC 308-51-140 SPECIAL EXAMINATION. ((+1)) An applicant who states that he or she cannot read or speak the English language with sufficient facility to take the regular examination may elect one of the following options:

((+a)) He) The applicant may attempt to take the written examination: PROVIDED, That if he cannot successfully obtain a passing score of 70((%)) or better, the board will disregard the results of this examination and the applicant may elect ((an alternative examination: PROVIDED FURTHER, That there will be no reexamination fee under this subsection (a);

((+b)) He may elect to be given the written examination in English orally; or

((+c)) He may elect to take an alternative, oral examination with the assistance of an interpreter.

((+2)) An applicant requiring language translation will be given an alternative examination in which the number of oral questions will be sufficient to appropriately test the range and depth of his knowledge of the subjects shown in WAC 308-51-100(3);) one of the following:

- (1) To have the examination read in English; or
- (2) Take the examination with the assistance of an interpreter.

NEW SECTION

WAC 308-51-220 REEXAMINATION FOR ASSURANCE OF COMPETENCY. (1) An applicant for licensure who has been previously licensed shall retake both the practical and written portions of the examination and achieve passing scores before relicensure under any one of the following circumstances:

(a) The applicant has been unlicensed voluntarily for more than thirty-six calendar months; or

(b) The applicants license has been revoked or suspended by reason of a disciplinary action by the director of the department of licensing.

(2) The director may require reexamination in any disciplinary order, based upon findings and conclusions relative to the competency of a licensee to practice massage before issuing an unconditional license.

(3) Whenever reexamination is required, the licensee shall pay the appropriate fees set forth in WAC 308-51-210.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-51-020 LICENSES.

WAC 308-51-040	DENIAL, SUSPENSION OR REVOCATION OF LICENSE.
WAC 308-51-060	FACILITY STANDARDS.
WAC 308-51-080	INSPECTION OF MASSAGE PREMISES.
WAC 308-51-150	MASSAGE BUSINESS LICENSEE REPORTS.

WSR 88-06-035 NOTICE OF PUBLIC MEETINGS DEPARTMENT OF LICENSING (Podiatry Board) [Memorandum—February 26, 1988]

The Podiatry Board meeting scheduled on March 11, 1988, at the St. Francis Hospital located in Tacoma, Washington is now changed to be held at the New Market Skills Center, 7299 Armstrong Lane, Buildings B1 and B3, Tumwater, Washington 98501.

WSR 88-06-036 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES [Filed February 29, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning medical aid rules and maximum fee schedule, WAC 296-20-045 and 296-23-620 dealing with chiropractic consultations in cases where injured workers' conservative or chiropractic care extends past 120 days following the initial visit.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 31, 1988.

The authority under which these rules are proposed is RCW 51.04.020(4) and 51.04.030.

The agency reserves the right to modify the text of these proposed rules and changes prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing.

Written and/or oral submissions may also contain data, views and arguments of the rules on economic values, pursuant to chapter 43.21H RCW.

Correspondence relating to this notice and proposed rules should be addressed to:

Taylor Dennen, Assistant Director
for Medical Services
Department of Labor and Industries
General Administration Building
Mailstop HC-251
Olympia, Washington 98504

This notice is connected to and continues the matter in Notice Nos. WSR 87-23-052, 88-01-111 and 88-04-051 filed with the code reviser's office on November 18, 1987, December 22, 1987, and January 29, 1988.

Dated: February 29, 1988
By: Joseph A. Dear
Director

WSR 88-06-037
ADOPTED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-32—Filed February 29, 1988]

I, Joe Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to plumber examination, certification, reinstatement and temporary permit fees, WAC 296-400-045.

This action is taken pursuant to Notice No. WSR 88-01-046 filed with the code reviser on December 14, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.106-125 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 29, 1988.

By Joseph A. Dear
 Director

AMENDATORY SECTION (Amending Order 86-30, filed 9/17/86)

WAC 296-400-045 PLUMBER EXAMINATION, CERTIFICATION, REINSTATEMENT, AND TEMPORARY PERMIT FEES.

Examination fee: (((\$30.00))) \$100.00

Trainee certificate fee
 (1 year): \$20.00

Issuance of trainee certificate for less than 1 year: \$ 2.00 for each month of certificate period with a minimum fee of \$10.00

The trainee certificate shall expire one year from the date of issuance, and shall be renewed on or before the date of expiration.

Temporary permit fee: (((\$10.00))) \$20.00

Issuance or renewal of journeyman or specialty certificate fee (2 year): (((\$48.00))) \$60.00

Issuance of certificate for less than two years: (((\$2.00-))) \$ 2.50 for each month of certificate period with a minimum fee of (((\$10.00))) \$20.00

Reinstatement of journeyman or specialty certificate: (((\$48.00))) \$60.00

Replacement of all certificates:	\$20.00
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Each person who has passed the examination for the plumbers certificate of competency and has paid the certificate fee shall be issued a certificate of competency that will expire on his or her birthdate. If the person was born in an even-numbered year, the certificate shall expire on the person's birthdate in the next even-numbered year. If the person was born in an odd-numbered year, the certificate shall expire on the person's birthdate in the next odd-numbered year.

WSR 88-06-038
NOTICE OF PUBLIC MEETINGS
BUILDING CODE COUNCIL

[Memorandum—February 26, 1988]

1988 Meeting Schedule

January 15	9:00 a.m.	Sea-Tac
February 12	9:00 a.m.	Sea-Tac
March 11	9:00 a.m.	Spokane
April 7 and 8	9:00 a.m.	Sea-Tac
May 13	9:00 a.m.	Everett
June 10	9:00 a.m.	Sea-Tac
July 8	9:00 a.m.	Sea-Tac
August 12	9:00 a.m.	Tri-Cities
September 14	9:00 a.m.	Seattle
October 14	9:00 a.m.	Sea-Tac
November 18	9:00 a.m.	Sea-Tac
December 9	9:00 a.m.	Sea-Tac

Meetings of council committees will be held as part of the council meeting.

Note that the September 14 meeting is on a Wednesday and November 18 is on the third Friday in November.

WSR 88-06-039
ADOPTED RULES
DEPARTMENT OF LICENSING

[Order PM 711—Filed March 1, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Fourth Floor, Highways-Licenses Building, Olympia, Washington 98504, the annexed rules relating to new section WAC 308-124B-150; amending WAC 308-124B-130 and 308-124A-130; and repealing WAC 308-124B-010.

This action is taken pursuant to Notice No. WSR 88-02-051 filed with the code reviser on January 5, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.85.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Theresa Anna Aragon
Director

NEW SECTION

WAC 308-124B-150 OFFICE REQUIREMENT FOR BROKERS ACTIVELY LICENSED IN ANOTHER JURISDICTION. The term "office" in RCW 18.85.180 for a broker actively licensed in another jurisdiction in which the broker's headquarter office is located shall mean the maintenance of trust account and transaction records for a period of three years in the state of Washington in one location at the Washington office of an escrow agent licensed in the state of Washington, a real estate broker licensed in the state of Washington, attorneys at law licensed to practice in the state of Washington or title companies for all Washington transactions for the broker. The trust account and transaction records shall be open and accessible to representatives of the Department of Licensing. The parties to the transaction shall have access to the transaction records prepared or retained for the requesting party.

A broker actively licensed in another jurisdiction seeking licensure in Washington, whose headquarter office is located in that other jurisdiction, shall notify the department of the location address where the records are maintained in the state of Washington and shall include this address with the headquarter's address on the license application.

The Washington license shall be posted at the location where the records are being maintained.

Within thirty (30) days after mailing of the notice of audit, the broker shall come to the department's office, after making an appointment, in the geographic location (Spokane, Seattle, or Olympia) nearest to the location of the records to sign the audit report.

AMENDATORY SECTION (Amending Order PM 683, filed 10/7/87)

WAC 308-124B-130 NAMES PROHIBITED. A real estate broker shall not be issued a license nor advertise in any manner using names or trade styles which are similar to currently ((previously)) issued licenses or imply that the real estate firm is a nonprofit organization, research organization, public bureau or public group. A bona fide franchisee may be licensed using the name of the franchisor with the firm name of the franchisee.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-124B-010 PREVENTION OF THE SAME OR DECEPTIVELY SIMILAR REAL ESTATE FIRM NAMES

AMENDATORY SECTION (Amending Order PM 683, filed 10/7/87)

WAC 308-124A-130 SALES PERSON, ASSOCIATE BROKERS—TERMINATION OF SERVICES. A person licensed as salesperson or associate broker may perform duties and activities as licensed only under the direction and supervision of a licensed individual broker or designated broker and as a representative of such broker. This relationship may be terminated unilaterally by either the broker or salesperson or associate broker. Notice of such termination shall be given by the broker to the director without delay and such notice shall be accompanied by and include the surrender of the salesperson's or associate broker's license. The broker may not condition his or her surrender of license to the director upon performance of any act by the salesperson or associate broker. Notice of termination shall be provided by signature of the broker, or a person authorized by the broker to sign for the broker, on the surrendered license of the salesperson or associate broker or surrender of the license by the licensee to the department. (~~((The broker, or person authorized by the broker to sign for the broker, shall place the termination date on the surrendered license or if the licensee is terminating the relationship and the licensee surrenders the license to the department then the termination date shall be the postmark date or date hand delivered to the department.))~~ The termination date shall be the postmark date or date the license is hand delivered to the department.

If the license cannot be surrendered to the department because the license has been lost, the salesperson or associate broker and the broker shall complete an affidavit of lost license on a form provided by the department. No license transfers shall be permitted unless the license is surrendered or the affidavit of lost license is completed and filed with the department. If the license cannot be surrendered because the broker is conditioning the surrender of the license, the associate broker or salesperson shall so advise the department in writing and cooperate in full with the investigation of the broker's failure to comply with this rule. Upon receipt of the salesperson or associate broker's written statement about broker conditioning the release of the license, the department shall process the license transfer.

WSR 88-06-040 ADOPTED RULES DEPARTMENT OF LICENSING [Order PM 712—Filed March 1, 1988]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Fourth Floor, Highways-Licenses Building, Olympia, Washington 98504, the annexed rules relating to new section WAC

308-124E-012, 308-124E-013 and 308-124E-014; and repealing WAC 308-124E-011.

This action is taken pursuant to Notice No. WSR 88-02-049 filed with the code reviser on January 5, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.85.310 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Theresa Anna Aragon
Director

NEW SECTION

WAC 308-124E-012 ADMINISTRATION OF FUNDS HELD IN TRUST. GENERAL PROCEDURES. Any real estate broker who receives funds or moneys from any principal or any party to a real estate or business opportunity transaction, property management agreement, or contract/mortgage collection agreement shall hold the funds or moneys in trust for the purposes of the transaction or agreement, and shall not utilize such funds or moneys for the benefit of the broker or any person not entitled to such benefit. Except as specifically provided in this section, funds or moneys received in trust shall be deposited in a Washington state banking institution approved by the banking division, department of general administration, state of Washington, or successor. The broker is responsible for depositing, holding, disbursing and accounting for funds in trust as provided herein.

(1) Bank accounts shall be designated as trust accounts in the firm name of the real estate broker as licensed.

(2) Interest credited to a client's account must be recorded as a liability on client ledger. Interest assigned or credited by written assignment agreement to the broker may not be maintained in the trust account. The broker is responsible to make arrangements with the financial institution to credit this interest to the general account of the firm.

(3) The broker shall establish and maintain a system of records and procedures approved by the director that provide an audit trail accounting for all funds received and disbursed, identified to the account of each individual client. Records and procedures described herein meet approval requirements. Any alternative records or procedures proposed for use by a broker shall be approved in advance by the department.

(4) The real estate broker shall be responsible for deposits, disbursements or transfers of clients' funds received and held in trust, whether disbursed by personal signature, signature plate or signature of another person authorized to act on the broker's behalf.

(5) All funds or moneys received for any reason pertaining to the sale, renting, leasing or option of real estate or business opportunities or contract or mortgage collections shall be deposited in the broker's real estate trust bank account not later than the first banking day following receipt thereof; except

(a) Checks received as earnest money deposits when the earnest money agreement states that a check is to be held for a specified length of time or until the occurrence of a specific event; and

(b) Checks, funds or moneys received as rent, contract payments or mortgage payments on real estate or business opportunities, owned exclusively by the real estate broker or the broker's real estate firm.

(6) All checks, funds or moneys received shall be identified by the day received and by the amount, source and purpose on either a cash receipts journal or duplicate receipt retained as a permanent record.

(7) All deposits to the trust bank account shall be documented by duplicate deposit slip, validated by bank imprint or electronic transfer memo identifying the source of funds and transaction to which it applies. Receipt of funds by wire transfer are to be posted in the same manner as other receipts provided there is a traceable identifying number provided by the financial institution or transferring entity. The broker must also make arrangements for a follow-up "hard-copy" receipt for the deposit.

(8) An individual client's ledger sheet shall be established and maintained for each client for whom funds are received in trust, to which ledger sheet all receipts and disbursements shall be posted. The credit entries must show the date of deposit, amount of deposit, and item covered including, but not limited to "earnest money deposit," "down payment," "rent," "damage deposit," "rent deposit" "interest". The debit entries must show the date of the check, check number, amount of the check, name of payee and item covered. The "item covered" entry may indicate a code number per chart of accounts, or may be documented by entry in a cash receipts journal, cash disbursements journal, or check voucher.

(9) The real estate trust bank account balance must be equal at all times to the outstanding trust liability to clients. The balance shown in the check register or bank control account must equal the total liability to clients.

(10) The broker shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account check register or bank control account.

(11) All disbursements of trust funds shall be made by check, or electronic transfer, drawn on the real estate trust bank account and identified thereon to a specific real estate or business opportunity transaction, or collection/management agreement. The number of each check, amount, date, payee, items covered and the specific client's ledger sheet debited must be shown on the check stub or check register and all data must agree exactly with the check as written.

(a) No disbursement from the trust account shall be made based upon wire transfer receipts until the deposit has been verified.

(b) The broker must make arrangements with the financial institution in which the trust account is located to provide a follow-up "hard-copy" debit memo when funds are disbursed via wire transfer.

(c) The broker shall retain in the transaction file a copy of instructions signed by the owner of funds to be wire-transferred which identifies the receiving entity and account number.

(12) Voided checks written on the trust bank account shall be permanently defaced and shall be retained.

(13) Commissions owed to another real estate broker may be paid from the real estate trust bank account. Those commissions shall be paid promptly upon receipt of funds. Commissions shared with another broker are a reduction of the gross commissions received.

(14) No deposits to the real estate trust bank account shall be made of funds:

(a) That belong to the real estate broker or the real estate firm, including funds to "open" the bank account or to keep the account from being "closed"; or

(b) That do not pertain to a client's real estate or business opportunity sales transaction or are not received in connection with a client's rental, contract or mortgage collection account.

(15) No disbursements from the real estate trust bank account shall be made:

(a) For items not pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account;

(b) Pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account in excess of the actual amount held in the real estate trust bank account in connection with that transaction or collection account;

(c) In payment of a commission owed to any person licensed to the real estate broker or in payment of any business expense of the broker. Payment of commissions to persons licensed to the broker or of any business expense of the broker shall be paid from the regular business bank account of the broker.

(d) For bank charges of any nature, including bank services, checks or other items, except as specified on WAC 308-124E-013 (1)(a). Bank charges are business overhead expenses of the broker. Arrangements must be made with the bank to have any such charges applicable to the real estate trust bank account charged to the regular business bank account, or to provide a separate monthly statement of bank charges so that they may be paid from the brokers business bank account.

(16) The provisions of this chapter are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back-up all data files.

(b) Receipt and check registers will be printed at least once monthly and retained as a permanent record. Reconciliation and trial balance will be accomplished at least once monthly, printed and retained as a permanent record.

(c) The broker will maintain a printed, dated source document file to support any changes to existing accounting records.

(d) If the program has the ability to write checks, the check number must be pre-printed on the check or retained voucher copy by the supplier. The program may, if desired assign suffixes or subaccount codes before or after the check number for identification purposes.

(e) The check number must appear in the magnetic coding which also identifies the account number for readability by the financial institution computer.

NEW SECTION

WAC 308-124E-013 ADMINISTRATION OF FUNDS HELD IN TRUST REAL ESTATE AND BUSINESS OPPORTUNITY TRANSACTIONS. The procedures in this section are applicable to funds received by the broker in connection with real estate sales or business opportunity transactions or options thereon. These procedures are in addition to the requirements of the general trust account procedures contained in WAC 308-124E-012.

(1) Bank accounts shall be designated as trust accounts in the firm name of the real estate broker as licensed. Trust bank accounts for real estate sales or business opportunity transactions shall be interest bearing demand deposit accounts.

These accounts shall be established as described in RCW 18.85.310 and this section.

(a) The broker shall maintain a pooled interest bearing trust account for deposit of client funds which, if placed into a separate account, would not produce a positive net income after payment of bank fees. Interest income from this account will be paid to the department by the depository institution in accordance with RCW 18.85.310(7) after deduction of bank charges. The department shall remit the funds to the state treasurer.

(b)(i) For funds which would produce a positive net income after payment of bank fees if placed into a separate account, the broker shall maintain a separate interest-bearing account for each client whose funds would produce positive net income after payment of bank fees and the interest earned from this account shall be paid to the client; or

(ii) Maintain a pooled interest-bearing trust account for funds which would produce a positive net income after payment of bank fees with sub-accounting that will provide for computation of interest earned by each client and payment of the interest to the account of the client.

(2) A separate check shall be drawn on the real estate trust bank account, payable to the broker as licensed, for each commission earned, after the final closing of the real estate or business opportunity transaction. Each commission check shall be identified to the transaction to which it applies.

(3) No disbursements from the real estate trust bank account shall be made in advance of closing of a real estate or business opportunity transaction or before the happening of a condition set forth in the earnest money agreement, to any person or for any reason, without a written release from both the purchaser and seller; except that

(i) If the agreement terminates according to its own terms prior to closing, disbursement of funds shall be made as provided by the agreement without a written release; and

(ii) Funds may be disbursed to the escrow agent designated in writing by the purchaser and seller to close the transaction, reasonably prior to the date of closing in order to permit checks to clear.

NEW SECTION

WAC 308-124E-014 ADMINISTRATION OF FUNDS HELD IN TRUST — PROPERTY MANAGEMENT Any real estate broker who receives funds or moneys from any principal or any party to property management agreement or contract/mortgage collection agreement shall hold the funds or moneys in trust for the purposes of the agreement, and shall not utilize such funds or moneys for the benefit of the broker or any person not entitled to such benefit. These procedures are applicable to property management and contract/mortgage collection agreements, and are in addition to the general trust account procedures in WAC 308-124E-012.

(1) Bank accounts shall be designated as trust accounts in the firm name of the real estate broker as licensed. Trust bank accounts for property management transactions are exempt from the interest-bearing requirement of RCW 18.85.310. However, interest-bearing accounts for property management transactions may be established as described in this section.

(a) Interest-bearing trust bank accounts or dividend-earning investment accounts containing only funds held on behalf of an individual owner of income property managed by the broker may be established when directed by written property management agreement or directive signed by the owner: PROVIDED, that all interest or earnings shall accrue to the owner;

(b) Interest-bearing trust bank accounts containing only damage or security deposits received from tenants of residential income properties managed by the broker for an individual owner may be established by the broker when directed by written management agreement, and the interest on such trust bank accounts may be paid to the owner, if the broker is by written agreement designated a "representative of the landlord" under the provisions of RCW 59.18.270, Residential Landlord-Tenant act;

(c) The broker is not required to establish individual interest-bearing accounts for each owner when all owners assign the interest to the broker;

(d) A common account, usually referred to as a "clearing account" may be established if desired. No funds which belong to the broker or firm or are related to transactions on property owned by the broker or firm shall be maintained in this account.

(2) Any property management accounting system is to be an accounting of cash received and disbursed by the managing broker only. Any other method of accounting

offered to owners for their rental properties, unit and/or complexes are to be supplementary to the brokers accounting of all cash received and disbursed through his/her trust account(s). All owners' summary statements must include this accounting.

(3) The pre-authorization of disbursements or deductions by the financial institution for recurring expenses such as mortgage payments on behalf of the owner is not permitted if the account contains tenant security deposits or funds belonging to more than one client.

(4) A single check may be drawn on the real estate trust bank account, payable to the broker as licensed, in payment of all property management fees and commissions, if such check is supported by a schedule of commissions identified to each individual client. Property management commissions shall be withdrawn at least once monthly.

(5) No disbursements from the real estate trust bank account shall be made of funds received as damage or security deposit on a lease or rental contract for property managed by the broker to the owner or any other person without the written agreement of the tenant, until the end of the tenancy when the funds are to be disbursed to the person or persons entitled to the funds as provided by the terms of the rental or lease agreement and consistent with the provisions of RCW 59.18.270, Residential Landlord-tenant act, or other appropriate statute.

REPEALER

The following section of the Washington Administrative Code is repealed;

WAC 308-124E-011 ADMINISTRATION OF FUNDS HELD IN TRUST

**WSR 88-06-041
PROPOSED RULES
DEPARTMENT OF ECOLOGY**
[Filed March 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the siting of dangerous waste management facilities.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 10, 1988.

The authority under which these rules are proposed is chapter 70.105 RCW.

The specific statute these rules are intended to implement is RCW 70.105.210.

This notice is connected to and continues the matter in Notice Nos. WSR 87-24-099 and 88-03-074 filed with the code reviser's office on December 2, 1987, and January 20, 1988.

Dated: March 1, 1988
By: P. C. Johnson

WSR 88-06-042**ADOPTED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 88-10—Filed March 1, 1988]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Grant program—Schools for the twenty-first century, chapter 392-310 WAC.

This action is taken pursuant to Notice No. WSR 88-03-073 filed with the code reviser on January 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.100.054 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 29, 1988.

By Frank B. Brouillet
Superintendent of Public Instruction

Chapter 392-310 WAC
GRANT PROGRAM—SCHOOLS FOR THE
TWENTY-FIRST CENTURY

WAC

- | | |
|-------------|---|
| 392-310-010 | Authority. |
| 392-310-015 | Purpose. |
| 392-310-020 | Administrative functions of the superintendent of public instruction. |
| 392-310-025 | Incorporation by reference of state board of education rules. |

NEW SECTION

WAC 392-310-010 AUTHORITY. The authority for this chapter is RCW 28A.100.054 which authorizes the superintendent of public instruction to adopt rules to implement the superintendent of public instruction's duties related to the schools for the twenty-first century pilot projects program.

NEW SECTION

WAC 392-310-015 PURPOSE. The purpose of this chapter is to establish policies and procedures implementing the schools for the twenty-first century pilot projects program.

NEW SECTION

WAC 392-310-020 ADMINISTRATIVE FUNCTIONS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION. The administrative responsibilities of the superintendent of public instruction respecting the schools for the twenty-first century pilot projects program include each of the following activities:

(1) Administration of the policies and procedures established by the state board of education at chapter 180-110 WAC.

(2) Receipt and disbursement of public and private moneys made available for the support of the pilot projects program.

(3) Collection and dissemination of information respecting the pilot projects program through the state clearinghouse for education information.

NEW SECTION

WAC 392-310-025 INCORPORATION BY REFERENCE OF STATE BOARD OF EDUCATION RULES. The rules of the state board of education set forth at chapter 180-110 WAC are hereby incorporated into and made a part of this chapter including, but not limited to, WAC 180-110-050 which shall likewise govern the modification or waiver of a rule of the superintendent of public instruction by the superintendent of public instruction.

WSR 88-06-043
EMERGENCY RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Order 88-3—Filed March 1, 1988]

I, Ralph C. Ruff, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at 406 South Water, Olympia, WA, the annexed rules relating to:

- | | | |
|-----|----------------|---------------------------------------|
| New | WAC 326-20-091 | Size standards—Purpose. |
| New | WAC 326-20-092 | Small business concern requirement. |
| New | WAC 326-20-093 | Definitions. |
| New | WAC 326-20-094 | Application of size standard. |
| New | WAC 326-20-095 | Determination of firm size. |
| New | WAC 326-20-096 | STURAA project size standard. |
| New | WAC 326-20-097 | Change in firm size. |
| New | WAC 326-20-098 | Applicability of federal regulations. |

I, Ralph C. Ruff, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this office is required to adopt a definition of small business concern, pursuant to chapter 328, Laws of 1987.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 39.19 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Ralph C. Ruff
Director

NEW SECTION

WAC 326-20-091 SIZE STANDARDS – PURPOSE. The purpose of WAC 326-20-091 through WAC 326-20-098 is to set forth the procedure by which the Office will apply maximum size standards which a firm must not exceed to be eligible for certification. The Office's determination of whether a firm qualifies as a small business concern shall be, whenever possible, consistent with the small business requirements defined under section 3 of the Small Business Act, 15 U.S.C. § 632, and its implementing regulations. (Authority: RCW 39.19.030 (7)(b)).

NEW SECTION

WAC 326-20-092 SMALL BUSINESS CONCERN REQUIREMENT. (1) In addition to meeting the ownership and control requirements of chapter 39.19 RCW and these regulations, in order to be entitled to certification under chapter 39.19 RCW, a firm must qualify as a small business concern.

(2) A firm which exceeds the small business size limits after certification by the office shall be subject to decertification.

NEW SECTION

WAC 326-20-093 DEFINITIONS. (1) Affiliate:

(a) Except as otherwise noted, size determinations shall include the applicant concern and all its domestic and foreign affiliates. Moreover, all affiliates, regardless of whether organized for profit, must be included.

(b) Except as otherwise provided in this section, concerns are affiliates of each other when either directly or indirectly:

(i) One concern controls or has power to control the other, or;

(ii) A third party or parties controls or has the power to control both, or;

(iii) Such an "identity of interest" between or among parties exists so that affiliation may be presumed.

(c) In determining whether affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, common facilities, and contractual relationships: Provided, however, That restraints imposed on a franchise by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his or her effort, commensurate with ownership, and bears the risk of loss or failure.

(2) Annual Receipts. In size determinations where the maximum size is set by reference to "annual receipts," size eligibility requires that the concern may not exceed the "annual receipts" in that standard.

(a) For the purpose of determining annual receipts of a concern, "receipts" is defined to include all revenue in whatever form received or accrued from whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. However, the term "receipts" excludes

proceeds from sales of capital assets and investments, proceeds from transactions between a concern and its domestic and foreign affiliates, proceeds from payments of notes receivable and accounts receivable, and amounts collected as an agent for another, such as gross bookings on which a commission is earned (in which case only the commission earned would constitute revenue) or such as taxes collected for remittance to a taxing authority.

(b) Period of measurement. "Annual receipts" of a concern which has been in business of three or more completed fiscal years means the arithmetic annual average revenue of the concern over its last three completed fiscal years (total revenue compiled over the entire three year period would be divided by three).

(c) "Annual receipts" of a concern which has been in business for less than three fiscal years means the arithmetic annual average revenue over the time period the concern has been in business (total revenues compiled over the period the concern has been in business, divided by the number of weeks, including fractions of a week, the concern has been in business, multiplied by fifty-two).

(d) Method of determining annual receipts. Revenue may be taken from the regular books of account of the concern. If the Office so elects or the firm has not kept regular books of account or the Internal Revenue Service has found such records to be inadequate and has reconstructed income of the concern, then revenue as shown on the Federal Income Tax return of the concern may be used in determining annual receipts.

(3) Business concerns or concern. A business concern eligible for certification under this chapter is a business entity, including its affiliates, organized for profit, with a place of business located in the United States and which makes a significant contribution to the United States economy through payment of taxes and/or use of American products, materials and/or labor. Such business entity must be legitimately owned and controlled by an individual(s) who is (are) citizens of or lawfully admitted permanent resident aliens in the United States, or by another business entity (or entities) eligible for certification under chapter 39.19 RCW.

(4) Number of Employees. In size determinations where the standard is "number of employees" size eligibility requires that the concern may not exceed the number of employees in that standard.

(a) "Number of employees" means that average employment of the concern, including the employees of its domestic and foreign affiliates, based upon employment during each of the pay periods for the preceding completed twelve calendar months.

(b) In computing average employment, part-time and temporary employees are counted as full-time employees for each applicable pay period.

(c) If a concern has not been in business for twelve months, "number of employees" means the average employment of the concern, including its affiliates, during each of the pay periods during which it has been in business.

(5) Small Business Concern. Except as otherwise provided in WAC 326-20-096, for certain federal projects, a small business concern for purposes of eligibility for

certification is a business concern which does not exceed the size limitations as set forth in the current table of Standard Industrial Classification (SIC) codes and corresponding industry size standards as adopted by the Small Business Administration Federal Regulations, 13 CFR 121.2 (proposed § 121.600). The number of employees or amount of annual receipts listed as the size standard for each SIC code indicates the maximum allowed for a firm (including its affiliates) to qualify as a small business concern. SIC size standard tables may be obtained at the following locations:

1. **Office of Minority and Women's Business Enterprises**
406 South Water, MS: FK-11
Olympia, Washington 98504-4611
(206) 753-9693 or SCAN 234-9693
2. **METRO – MWBE/Contract Compliance Programs**
821 Second Avenue, 6th Floor,
MS: 63
Seattle, Washington 98104
(206) 684-1337
3. **Seattle Human Rights Department**
105 Fourteenth Avenue
Seattle, Washington 98122
(206) 625-4384
4. **King County Minority/Women's Business Program**
Room 400, King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 344-2617
5. **Port of Seattle – Contract Compliance Department**
P.O. Box 1209
Seattle, Washington 98111
(206) 728-3296
6. **City of Spokane – Affirmative Action Department**
Fourth Floor, Municipal Building
West 808 Spokane Falls Boulevard
Spokane, Washington 99201-3333
(509) 456-4368

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 326-20-094 APPLICATION OF SIZE STANDARD. (1) The Office will determine which SIC code an applicant firm falls under based on information submitted by the firm. The Office has prepared conversion charts showing the Department of General Administration's commodity code designations listed in the MWBE Directory and the corresponding SIC codes, and the codes developed by the Construction Specifications Institute with the corresponding SIC codes.

(2) If an applicant's business activities encompass two or more SIC codes, the particular size standard to be

applied will be based on the primary industry classification of the applicant concern. In determining what is the primary industry in which an applicant, including its affiliates, is engaged, primary consideration shall be given to the distribution of receipts, employees and costs of doing business among differing industry areas in which a concern is operating for the most recently completed fiscal year of the concern. Other factors (e.g., patents, contract awards, assets) may be considered.

NEW SECTION

WAC 326-20-095 DETERMINATION OF FIRM SIZE. (1) At the time of application for certification, and again at each renewal, a firm must demonstrate to the Office that it is a small business concern. The Office, in turn, will verify that each firm qualifies as a small business concern. In verifying the applicant's size, the Office will review the annual financial statements and other relevant material regarding the firm's annual receipts and number of employees.

(2) The size of the firm, including its affiliates, will be determined as of the time of application for certification, and at the time of each renewal of certification.

NEW SECTION

WAC 326-20-096 STURAA PROJECT SIZE STANDARD. For purposes of utilization on projects funded by the Federal Highway Administration or under The Surface Transportation and Urban Relocation Assistance Act of 1987, (P.L. 100-17, or STURAA) the maximum size standard set out in STURAA and 49 CFR Part 23 of \$14 million average annual gross receipts over the preceding three fiscal years, shall apply, even if the size standard would otherwise be set by reference to number of employees. The \$14 million figure is a ceiling and firms are still subject to applicable lower limits on business size as established by the Small Business Administration and these regulations.

NEW SECTION

WAC 326-20-097 CHANGE IN FIRM SIZE. (1) In the event a firm that is certified as a small business concern under this chapter exceeds the size limits, or if the firm wishes to expand the areas in which it plans to do business, it must notify the Office in writing within thirty (30) calendar days of the event or the effective date of the expansion.

(2) If a firm exceeds size limits while performing a contract, those portions of the contract performed after exceeding size limits may still be counted toward goal attainment by the state agency or educational institution, but for any subsequent contracts, renewals, extensions or renegotiations the state agency or institution cannot count the participation of the firm toward its goal attainment.

NEW SECTION

WAC 326-20-098 APPLICABILITY OF FEDERAL REGULATIONS. Whenever issues arise regarding whether a firm qualifies as a small business

concern which cannot be resolved by reference to these regulations, federal regulations adopted by the Small Business Administration at 13 CFR § 121 shall provide guidance to resolve such issues.

WSR 88-06-044
NOTICE OF PUBLIC MEETINGS
LEGAL FOUNDATION OF WASHINGTON
 [Memorandum—February 29, 1988]

The following is a list of the dates and locations of meetings for 1988. Please note the changes made: March 25 at Sea-Tac Airport is now changed to April 7 at Arnolds Restaurant in Olympia and the September 12 meeting is changed to September 13.

January 22, 1988	Triples Restaurant Seattle
April 7, 1988	Arnolds Restaurant Olympia
May 20, 1988	Sea-Tac Airport Executive Conference Room
September 13, 1988	Westin Hotel Vancouver, BC
October 28, 1988	Sheraton Hotel Spokane
November 18, 1988	Sea-Tac Airport Executive Conference Room

WSR 88-06-045
PROPOSED RULES
PUBLIC WORKS BOARD
 [Filed March 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Works Board intends to adopt, amend, or repeal rules concerning application evaluation procedure and board deliberations as found currently in WAC 399-30-040;

that the agency will at 10:00 a.m., Tuesday, April 5, 1988, in the Ramada Inn, Spokane International Airport, Spokane, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.155.040(4).

The specific statute these rules are intended to implement is RCW 43.155.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Friday, April 1, 1988.

Dated: March 1, 1988
 By: Robert C. Anderson
 Chair

STATEMENT OF PURPOSE

Title: WAC 399-30-040 Application evaluation procedure and board deliberations.

Statutory Authority and Specific Statute the Rule is Intended to Implement: RCW 43.155.040(4) to implement RCW 43.155.070.

Summary of the Rule and Statement of the Reasons Supporting the Proposed Action: Revise the procedures by which applications for loans from the public works assistance account will be considered, evaluated and prioritized.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Robert C. Anderson, Chair, Public Works Board, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 586-0490.

Name of the Organization Proposing the Rule: Public Works Board.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: To carry out the intent of chapter 43.155 RCW, which creates the Public Works Board and authorizes it to make low-interest or interest-free loans for public works projects that meet the legislation's criteria and standards.

Whether the Rule is Necessary as the Result of Federal Law or Federal or State Court Action: No.

Small Business Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 87-16, filed 8/10/87)

WAC 399-30-040 APPLICATION EVALUATION PROCEDURE AND BOARD DELIBERATIONS. (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local effort and project need.

(i) Up to thirty-eight points may be awarded in the evaluation of each application's demonstration of need for the proposed project. Responses to questions ((12 through 19)) 2.01, 2.02, and 2.04 will be evaluated to determine this score.

(ii) Up to two points may be awarded in the evaluation of coordinated projects provided in applicant responses to question ((20)) 2.03.

(iii) Up to sixty points may be awarded in the evaluation of the applicant jurisdiction's demonstration that it is making a reasonable effort to meet its public works needs. Responses to questions ((21)) 4.01 through ((53)) 4.19 will be evaluated to determine this score.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board will then adjust the ranked list in consideration of the following factors:

- (i) Geographical balance;
- (ii) Economic distress;
- (iii) Type of projects;
- (iv) Type of jurisdiction;

- (v) Other criteria that the board considers advisable.
- (f) Staff will verify critical information on each project as required by the board.
- (g) The board will not accept oral testimony from any applicant while deliberating loan priorities, other than information requests initiated by the board as provided in (h) of this subsection.
- (h) The board may consult with officials of jurisdictions having projects on the list recommended for funding on any issue it wishes to address.
- (3) Applicants will be notified in writing of board decisions.

WSR 88-06-046
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed March 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning revisions to WAC 296-17-350(6) Piece rate rule, requiring employers to report actual hours worked by their employees when they are subject to any federal or state law or rule which requires the keeping of actual hours worked, and provides for a penalty for noncompliance of this rule by computing worker hours using the state minimum wage divided into gross wages if records of hours worked are not maintained and reported for industrial insurance purposes.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 1, 1988.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is RCW 51.16.035.

The agency reserves the right to modify the text of these proposed rules prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing.

Written and/or oral submissions may also contain data, news, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21 RCW.

This notice is connected to and continues the matter in Notice No. WSR 88-01-118 filed with the code reviser's office on December 23, 1987.

Dated: March 1, 1988
By: Joseph A. Dear
Director

WSR 88-06-047
ADOPTED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Order 87-33—Filed March 1, 1988]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of rules, definitions, and risk classification language contained in chapter 296-17 WAC applicable to workers' compensation insurance underwritten by the

Washington state fund, Department of Labor and Industries, and specifically a new classification applicable to primary aluminum smelting including corresponding base rates and expected losses for the new classification.

This action is taken pursuant to Notice No. WSR 88-02-060 filed with the code reviser on January 6, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 51.16.035 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Joseph A. Dear
Director

NEW SECTION

WAC 296-17-55201 CLASSIFICATION 1802.

Aluminum smelting: Primary smelting of aluminum from alumina using an electrolytic reduction process. This classification includes the alloying and casting of sheet ingots, T-ingots, rolling ingots, notched ingots, sows, pigs, extrusion logs, extrusion billets, and other primary production shapes when performed by a primary producer subject to this classification.

This classification excludes secondary processors who do not reduce aluminum from alumina, but whose principle business is casting, rolling, extruding, foiling, or recycling aluminum and aluminum alloys from molten aluminum, primary production shapes or used scrap and dross which are reported separately in Risk Classification 1801.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-885 TABLE III.

Expected Loss Rates and D-Ratios
Expected Loss Rates in Dollars Per Worker Hour
for Indicated Fiscal Year

CLASS	1984	1985	1986	D-RATIO
0101	.5803	.4838	.5320	.390
0102	.4740	.3952	.4399	.432
0103	.6007	.5008	.5518	.397
0104	.5279	.4398	.4713	.302
0105	.5420	.4517	.4963	.387
0106	.8235	.6863	.7496	.367
0107	.4513	.3763	.4173	.419
0108	.5497	.4582	.5027	.383
0109	1.0331	.8607	.9325	.339
0201	.9062	.7551	.8217	.354
0202	1.1731	.9772	1.0523	.318
0206	.6926	.5770	.6237	.331
0301	.2715	.2265	.2564	.490
0302	.8296	.6915	.7604	.390

CLASS	1984	1985	1986	D-RATIO	CLASS	1984	1985	1986	D-RATIO
0306	.3974	.3314	.3660	.405	2007	.1541	.1284	.1413	.393
0307	.2914	.2429	.2674	.394	2008	.1276	.1064	.1176	.409
0401	1.5975	1.3318	1.4687	.400	2101	.2453	.2046	.2288	.448
0402	.6692	.5578	.6132	.389	2102	.2184	.1823	.2040	.451
0403	.6839	.5698	.6164	.334	2104	.1237	.1032	.1166	.481
0502	.5524	.4604	.5044	.378	2105	.2500	.2084	.2297	.398
0503	.4900	.4083	.4489	.389	2201	.1122	.0936	.1049	.460
0504	.5610	.4678	.5211	.434	2202	.1913	.1596	.1777	.435
0505	.7702	.6420	.7070	.395	2203	.1166	.0972	.1094	.468
0506	1.1163	.9308	1.0372	.435	2401	.2386	.1989	.2218	.437
0507	1.2804	1.0674	1.1771	.400	2903	.2705	.2257	.2544	.477
0508	.9951	.8293	.9048	.363	2904	.3397	.2832	.3162	.443
0509	.9853	.8208	.8836	.317	2905	.2705	.2257	.2544	.477
0510	.5965	.4974	.5509	.415	2906	.2492	.2078	.2333	.460
0511	.4964	.4138	.4538	.380	2907	.2783	.2320	.2585	.435
0512	.6435	.5366	.5977	.434	2908	.4495	.3749	.4164	.425
0513	.4576	.3815	.4197	.392	2909	.2748	.2292	.2580	.472
0601	.1919	.1600	.1780	.430	3101	.2966	.2473	.2718	.388
0602	.2119	.1766	.1946	.394	3102	.2096	.1747	.1935	.414
0603	.3072	.2560	.2802	.374	3103	.2096	.1747	.1935	.414
0604	.6993	.5828	.6376	.372	3104	.2149	.1791	.1972	.392
0606	.1089	.0908	.1010	.427	3105	.3122	.2605	.2951	.493
0607	.1194	.0997	.1103	.417	3301	.3784	.3157	.3563	.480
0608	.1417	.1181	.1314	.428	3302	.3017	.2516	.2787	.415
0701	.7020	.5850	.6356	.349	3303	.1178	.0981	.1086	.412
0803	.1724	.1437	.1575	.380	3309	.1831	.1527	.1685	.405
0804	.2614	.2179	.2397	.391	3401	.1710	.1425	.1576	.409
0901	1.0690	.8909	.9711	.360	3402	.1441	.1203	.1342	.442
0902	.3152	.3236	.3005	.355	3403	.0604	.0503	.0560	.429
1002	.4847	.4041	.4502	.435	3404	.1851	.1544	.1725	.446
1003	.2714	.2263	.2507	.415	3405	.0965	.0805	.0896	.430
1004	.2714	.2263	.2507	.415	3406	.0844	.0704	.0785	.437
1005	2.0768	1.7317	1.9259	.429	3407	.1438	.1200	.1318	.390
1007	.0681	.0568	.0642	.483	3408	.0504	.0421	.0463	.397
1101	.2084	.1737	.1934	.432	3409	.0718	.0599	.0667	.431
1102	.6498	.5415	.5921	.370	3501	.3035	.2531	.2816	.431
1103	.1722	.1436	.1608	.452	3503	.1428	.1192	.1351	.493
1104	.2363	.1972	.2209	.454	3505	.2506	.2575	.2380	.399
1106	.0620	.0517	.0588	.510	3506	.3118	.2600	.2859	.391
1108	.2002	.1669	.1861	.438	3508	.2131	.1777	.1984	.442
1109	.4480	.3735	.4118	.400	3601	.0451	.0463	.0426	.439
1301	.1139	.0950	.1055	.424	3602	.0337	.0281	.0317	.483
1303	.0855	.0713	.0796	.441	3603	.2915	.2431	.2729	.461
1304	.0063	.0053	.0059	.486	3604	.4778	.3982	.4370	.383
1305	.1360	.1135	.1269	.449	3605	.1690	.1409	.1570	.435
1401	.4934	.4114	.4551	.410	3606	.2975	.2481	.2788	.464
1404	.2649	.2208	.2437	.403	3701	.1274	.1062	.1167	.389
1405	.2496	.2082	.2318	.435	3702	.2026	.1689	.1859	.395
1501	.1648	.1374	.1516	.402	3706	.1006	.1034	.0957	.388
1507	.1151	.0959	.1059	.406	3707	.1827	.1525	.1719	.477
1701	.8909	.7422	.8026	.333	3708	.1142	.0952	.1060	.433
1702	.8909	.7422	.8026	.333	3801	.1056	.0881	.0974	.411
1703	.2483	.2070	.2292	.413	3802	.0624	.0520	.0592	.503
1704	.3623	.3021	.3314	.382	3803	.0828	.0852	.0784	.450
1801	.3972	.3311	.3662	.410	3805	.0828	.0852	.0784	.450
1802	.1975	.1647	.1821	.410	3806	.0828	.0852	.0784	.450
2002	.2977	.2482	.2772	.443	3808	.1043	.0870	.0981	.479
2003	.2184	.1823	.2040	.451	3809	.1043	.1072	.0988	.441
2004	.3612	.3011	.3342	.421	3901	.0804	.0672	.0747	.433
2005	.1404	.1171	.1313	.458	3902	.2239	.1868	.2087	.445

CLASS	1984	1985	1986	D-RATIO	CLASS	1984	1985	1986	D-RATIO
3903	.4345	.3622	.4019	.420	5205	.3717	.3818	.3540	.368
3904	.3126	.3211	.2969	.403	5206	.1653	.1378	.1503	.363
3905	.0539	.0449	.0507	.479	5207	.0586	.0489	.0554	.487
3906	.2154	.1796	.2001	.434	5208	.4858	.4050	.4492	.419
3909	.0981	.0819	.0932	.507	5209	.2895	.2414	.2710	.461
4002	.2659	.2218	.2473	.437	5301	.0085	.0071	.0079	.388
4101	.0629	.0525	.0590	.462	5305	.0118	.0098	.0109	.420
4103	.1427	.1191	.1337	.461	5306	.0130	.0108	.0120	.428
4104	.0651	.0669	.0617	.439	5307	.1428	.1191	.1322	.420
4107	.0348	.0289	.0324	.450	6103	.0138	.0116	.0130	.455
4108	.0629	.0525	.0590	.462	6104	.1262	.1052	.1174	.438
4109	.0629	.0525	.0590	.462	6105	.1006	.0839	.0945	.469
4201	.1955	.1630	.1801	.406	6106	.1066	.1095	.1011	.416
4301	.3830	.3195	.3616	.490	6107	.0537	.0448	.0492	.388
4302	.3259	.2718	.3038	.448	6108	.2139	.1785	.2024	.497
4303	.4078	.3401	.3799	.445	6109	.0150	.0125	.0139	.454
4304	.2550	.2127	.2377	.446	6201	.0647	.0539	.0599	.427
4305	.5704	.4755	.5242	.398	6202	.2763	.2303	.2558	.423
4401	.1801	.1502	.1682	.453	6203	.0471	.0393	.0435	.418
4402	.2801	.2335	.2582	.408	6204	.0633	.0528	.0594	.466
4404	.2184	.1823	.2040	.451	6205	.0633	.0528	.0594	.466
4501	.0658	.0548	.0597	.357	6206	.0633	.0528	.0594	.466
4502	.0154	.0128	.0141	.395	6207	.3875	.3232	.3641	.473
4503	.0311	.0319	.0294	.426	6208	.1078	.0898	.0994	.411
4504	.0268	.0223	.0249	.455	6209	.0983	.0819	.0918	.456
4601	.2208	.1840	.1991	.335	6301	.0451	.0376	.0417	.413
4802	.1507	.1257	.1405	.447	6302	.0727	.0606	.0672	.417
4803	.1659	.1384	.1548	.448	6303	.0208	.0174	.0190	.374
4804	.2488	.2075	.2338	.473	6304	.0556	.0463	.0511	.400
4805	.1670	.1393	.1567	.467	6305	.0220	.0184	.0204	.434
4806	.0370	.0309	.0349	.476	6306	.1049	.0875	.0968	.412
4807	.7395	.6164	.6775	.389	6307	.0381	.0390	.0361	.455
4808	.1743	.1453	.1627	.452	6308	.0185	.0153	.0168	.372
4809	.0921	.0769	.0863	.463	6309	.0383	.0320	.0361	.477
4810	.0610	.0509	.0569	.448	6401	.0381	.0390	.0361	.455
4811	.1431	.1193	.1319	.410	6402	.0963	.0803	.0899	.454
4812	.1420	.1184	.1324	.447	6403	.0525	.0437	.0496	.494
4901	.0241	.0201	.0221	.401	6404	.0363	.0303	.0340	.466
4902	.0241	.0201	.0225	.455	6405	.2267	.1889	.2087	.405
4903	.0241	.0201	.0221	.401	6406	.0282	.0235	.0265	.467
4904	.0063	.0053	.0059	.486	6407	.0573	.0478	.0540	.475
4905	.1182	.0987	.1114	.483	6408	.1369	.1141	.1252	.383
4906	.0212	.0176	.0197	.438	6409	.2140	.1784	.1950	.369
4907	.0429	.0357	.0397	.425	6501	.0199	.0165	.0188	.487
4908	.0442	.0368	.0409	.429	6502	.0078	.0065	.0072	.437
4909	.0442	.0368	.0409	.429	6503	.0531	.0443	.0471	.280
5001	1.7685	1.4740	1.6135	.374	6504	.1006	.0840	.0959	.521
5002	.2176	.1815	.2046	.475	6505	.0744	.0620	.0697	.466
5003	.7879	.6565	.7122	.344	6506	.0232	.0193	.0215	.416
5004	.6529	.5447	.6174	.495	6507	.1502	.1545	.1424	.429
5101	.3329	.2775	.3075	.416	6508	.1608	.1341	.1509	.469
5102	.6769	.5641	.6182	.378	6509	.0822	.0686	.0774	.479
5103	.4539	.3783	.4161	.390	6601	.0845	.0705	.0788	.445
5104	.2871	.2950	.2731	.388	6602	.1856	.1548	.1743	.469
5106	.3007	.2507	.2767	.403	6603	.1072	.0894	.1004	.463
5107	.1997	.2050	.1896	.405	6604	.0326	.0272	.0303	.434
5108	.3199	.2668	.2962	.423	6605	.0878	.0732	.0823	.463
5109	.2578	.2150	.2361	.387	6607	.0586	.0489	.0554	.487
5201	.1379	.1150	.1275	.419	6608	.1287	.1073	.1191	.419
5204	.7658	.6389	.7194	.472	6609	1.1543	.9630	1.0884	.485

CLASS	1984	1985	1986	D-RATIO	Rates Effective January 1, 1988		
					Class	Accident Fund Rate	Medical Aid Fund Rate
6704	.0750	.0625	.0695	.425			
6705	.2719	.2267	.2569	.493			
6706	.1300	.1084	.1206	.429			
6707	4.4696*	3.7304*	4.2872*	.542			
6708	1.0774	.8986	1.0082	.459			
6709	.0527	.0439	.0497	.485			
6801	.2842	.2370	.2636	.429	0108	0.8600	0.5013
6802	.1696	.1414	.1573	.430	0109	1.6017	0.9324
6803	1.3181	1.0974	1.1547	.241	0201	1.4093	0.8793
6804	.1083	.0903	.0984	.361	0202	1.8110	1.5587
6809	.8277	.6906	.7855	.507	0206	1.0721	0.6733
6902	.3661	.3051	.3306	.339	0301	0.4342	0.3572
6903	2.1082	1.7562	1.8900	.316	0302	1.2999	0.6161
6904	.0849	.0707	.0781	.400	0306	0.6247	0.4400
6905	.1266	.1056	.1159	.385	0307	0.4569	0.4495
6907	.6353	.5297	.5878	.421	0401	2.5082	1.4778
6908	.1327	.1107	.1225	.416	0402	1.0483	0.9827
6909	.0270	.0226	.0252	.444	0403	1.0592	0.7230
7101	.0152	.0126	.0140	.411	0502	0.8633	0.5312
7102	6.3040*	5.2584*	5.9344*	.479	0503	0.7675	0.7671
7103	.0877	.0731	.0809	.413	0504	0.8870	0.6192
7104	.0228	.0190	.0211	.418	0505	1.2079	0.7058
7105	.1496	.1248	.1399	.458	0506	1.7654	1.3529
7106	.3030	.2526	.2820	.441	0507	2.0103	1.3163
7107	.4663	.3889	.4333	.435	0508	1.5505	1.3043
7108	1.1194	.9336	1.0455	.453	0509	1.5209	0.8162
7109	2.7203	2.2683	2.5221	.428	0510	0.9395	0.6494
7201	.1601	.1337	.1512	.489	0511	0.7764	0.4345
7202	.0197	.0164	.0179	.369	0512	1.0175	0.6587
7203	.0462	.0385	.0428	.421	0513	0.7172	0.4190
7301	.2783	.2321	.2595	.446	0601	0.3032	0.2940
7302	.2286	.1907	.2146	.471	0602	0.3324	0.2134
7307	.2822	.2355	.2692	.524	0603	0.4796	0.3725
7308	.1038	.0865	.0962	.429	0604	1.0917	0.8333
7309	.0527	.0439	.0497	.485	0606	0.1720	0.1876
					0607	0.1882	0.1689
					0608	0.2237	0.2465
					0701	1.0907	0.5786
					0803	0.2696	0.2100
					0804	0.4096	0.2921
					0901	1.6647	0.6481
					1002	0.7664	0.6163
					1003	0.4275	0.2857
					1004	0.4275	0.2857
					1005	3.2801	1.6494
					1007	0.1088	0.1180
					1101	0.3293	0.3204
					1102	1.0140	0.5206
					1103	0.2733	0.2864
					1104	0.3753	0.3178
					1106	0.0995	0.1326
					1108	0.3168	0.3430
					1109	0.7033	0.5388
					1301	0.1798	0.1549
0101		0.9093		0.4644	1303	0.1354	0.1153
0102		0.7490		0.5074	1304	0.0101	0.0128
0103		0.9427		0.6846	1305	0.2157	0.2320
0104		0.8123		0.3839	1401	0.7764	0.9738
0105		0.8486		0.8076	1404	0.4160	0.2512
0106		1.2841		0.8792	1405	0.3947	0.2382
0107		0.7114		0.3929			

*Daily expected loss rate

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID RATES BY CLASS OF INDUSTRY. Industrial insurance accident fund base rates and medical aid rates by class of industry shall be as set forth below.

Rates Effective
January 1, 1988

Class	Accident Fund Rate	Medical Aid Fund Rate
	Rate	Rate
0101	0.9093	0.4644
0102	0.7490	0.5074
0103	0.9427	0.6846
0104	0.8123	0.3839
0105	0.8486	0.8076
0106	1.2841	0.8792
0107	0.7114	0.3929

Rates Effective January 1, 1988			Rates Effective January 1, 1988		
Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
1501	0.2589	0.1825	3605	0.2673	0.2392
1507	0.1809	0.1746	3606	0.4732	0.4000
1701	1.3795	0.5348	3701	0.1996	0.1877
1702	1.3795	0.5348	3702	0.3177	0.2172
1703	0.3909	0.2264	3707	0.2914	0.2234
1704	0.5669	0.3559	3708	0.1805	0.1733
1801	0.6248	0.5719	3801	0.1662	0.1518
1802	0.2942	0.2410	3802	0.1000	0.0949
2002	0.4715	0.3381	3808	0.1664	0.1419
2003	0.3466	0.2702	3901	0.1272	0.1146
2004	0.5695	0.4361	3902	0.3549	0.3015
2005	0.2231	0.2250	3903	0.6850	0.7125
2007	0.2415	0.2310	3905	0.0860	0.1281
2008	0.2007	0.1545	3906	0.3405	0.2243
2101	0.3889	0.4256	3909	0.1575	0.1585
2102	0.3466	0.2702	4002	0.4207	0.3189
2104	0.1976	0.1930	4101	0.1000	0.1122
2105	0.3923	0.2455	4103	0.2269	0.2329
2201	0.1783	0.1435	4107	0.0551	0.0614
2202	0.3025	0.2907	4108	0.1000	0.1122
2203	0.1856	0.1782	4109	0.1000	0.1122
2401	0.3774	0.3303	4201	0.3074	0.2155
2903	0.4314	0.4122	4301	0.6125	0.5421
2904	0.5379	0.4367	4302	0.5166	0.4488
2905	0.4314	0.4122	4304	0.4043	0.4078
2906	0.3962	0.3008	4305	0.8952	0.5884
2907	0.4401	0.4205	4401	0.2858	0.2607
2908	0.7094	0.4791	4402	0.4405	0.3243
2909	0.4378	0.4183	4404	0.3466	0.2702
3101	0.4645	0.2845	4501	0.1023	0.0777
3102	0.3300	0.2285	4502	0.0242	0.0227
3103	0.3300	0.2285	4504	0.0425	0.0628
3104	0.3369	0.3727	4601	0.3420	0.4517
3105	0.4996	0.4441	4802	0.2389	0.1661
3301	0.6040	0.4112	4803	0.2631	0.2007
3302	0.4752	0.3445	4804	0.3964	0.3012
3303	0.1853	0.2097	4805	0.2659	0.2263
3309	0.2878	0.3378	4806	0.0591	0.0519
3401	0.2690	0.2367	4808	0.2766	0.2719
3402	0.2283	0.2720	4809	0.1466	0.1650
3403	0.0954	0.0875	4810	0.0967	0.0795
3404	0.2934	0.3018	4811	0.2251	0.1886
3405	0.1526	0.1498	4812	0.2252	0.1559
3406	0.1336	0.1620	4901	0.0378	0.0334
3407	0.2254	0.1803	4902	0.0382	0.0355
3408	0.0792	0.0740	4903	0.0378	0.0334
3409	0.1135	0.1938	4904	0.0101	0.0128
3501	0.4795	0.4461	4905	0.1888	0.2007
3503	0.2287	0.1924	4906	0.0335	0.0359
3506	0.4887	0.3374	4907	0.0677	0.0584
3508	0.3376	0.3028	4908	0.0697	0.1381
3602	0.0537	0.0658	4909	0.0697	0.1381
3603	0.4635	0.4092	5001	2.7621	1.6466
3604	0.7475	0.5585	5002	0.3469	0.2895

Rates Effective
January 1, 1988Rates Effective
January 1, 1988

Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
5003	1.2227	0.6197	6506	0.0365	0.0407
5004	1.0452	0.8116	6508	0.2561	0.2283
5101	0.5243	0.3380	6509	0.1312	0.1504
5102	1.0580	0.6467	6601	0.1340	0.1179
5103	0.7112	0.5788	6602	0.2956	0.2536
5106	0.4724	0.4337	6603	0.1705	0.1682
5108	0.5048	0.4819	6604	0.0516	0.0388
5109	0.4038	0.3466	6605	0.1397	0.1154
5201	0.2174	0.1977	6607	0.0938	0.1036
5204	1.2204	0.5559	6608	0.2029	0.1324
5206	0.2575	0.1824	6609	1.8442	1.8325
5207	0.0938	0.1036	6704	0.1184	0.1334
5208	0.7656	0.5861	6705	0.4350	0.5699
5209	0.4602	0.3797	6706	0.2053	0.2378
5301	0.0134	0.0159	6707	7.23*	10.45*
5305	0.0186	0.0186	6708	1.7123	2.3520
5306	0.0204	0.0180	6709	0.0841	0.1401
5307	0.2252	0.1791	6801	0.4489	0.2700
6103	0.0220	0.0349	6802	0.2679	0.2947
6104	0.1996	0.2080	6803	2.0026	0.6312
6105	0.1602	0.1293	6804	0.1686	0.1532
6107	0.0841	0.0885	6809	1.3283	2.5744
6108	0.3426	0.3091	6901	—	0.0661
6109	0.0238	0.0213	6902	0.5677	0.2322
6201	0.1021	0.1095	6903	3.2535	3.0083
6202	0.4358	0.3376	6904	0.1333	0.1094
6203	0.0742	0.0660	6905	0.1982	0.1650
6204	0.1007	0.1183	6906	—	0.1650
6205	0.1007	0.1183	6907	1.0018	0.6342
6206	0.1007	0.1183	6908	0.2090	0.1762
6207	0.6175	0.7049	6909	0.0428	0.0458
6208	0.1696	0.1762	7101	0.0239	0.0184
6209	0.1560	0.1850	7102	10.06*	24.77*
6301	0.0710	0.0576	7103	0.1380	0.1110
6302	0.1145	0.0935	7104	0.0358	0.0255
6303	0.0326	0.0362	7105	0.2377	0.1778
6304	0.0872	0.0742	7106	0.4797	0.3201
6305	0.0348	0.0362	7107	0.7376	0.7610
6306	0.1652	0.1871	7108	1.7767	1.1313
6308	0.0288	0.0198	7109	4.2958	3.3871
6309	0.0612	0.0809	7201	0.2561	0.2077
6402	0.1529	0.1300	7202	0.0307	0.0286
6403	0.0840	0.1159	7203	0.0729	0.0674
6404	0.0578	0.0663	7204	—	—
6405	0.3563	0.3317	7301	0.4411	0.3408
6406	0.0449	0.0602	7302	0.3642	0.4448
6407	0.0915	0.1307	7307	0.4545	0.5242
6408	0.2142	0.2320	7308	0.1638	0.1453
6409	0.3339	0.2572	7309	0.0841	0.1401
6501	0.0317	0.0345			
6502	0.0123	0.0150			
6503	0.0814	0.0463			
6504	0.1620	0.2603			
6505	0.1183	0.1349			

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

WSR 88-06-048**ADOPTED RULES****DEPARTMENT OF LABOR AND INDUSTRIES**

[Order 88-01—Filed March 1, 1988—Eff. April 1, 1988]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amendment of rules, definitions, and risk classification language contained in chapter 296-17 WAC applicable to workers' compensation insurance underwritten by the Washington state fund, Department of Labor and Industries, and specifically the establishment of a new general rule governing the premium liability of certain corporate officers and partners of general and limited partnerships.

This action is taken pursuant to Notice No. WSR 88-02-059 filed with the code reviser on January 6, 1988. These rules shall take effect at a later date, such date being April 1, 1988.

This rule is promulgated pursuant to RCW 51.16.035 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Joseph A. Dear
Director

NEW SECTION

WAC 296-17-349 CORPORATE OFFICER AND LIMITED PARTNER—COVERAGE EXTENDED. In exercising its police and sovereign powers (RCW 51.04.010), the state of Washington has declared all phases of premises withdrawn from private controversy and has provided sure and certain relief for all workers injured in the course of employment. For the purposes of reducing to a minimum suffering and economic loss arising from injuries and/or death occurring in the course of employment, the department is instructed to liberally construe Title 51 RCW (see Employments included—Declaration of policy RCW 51.12.010.) Through the years certain employments have been excluded from mandatory coverage. It is available on an optional basis. Excluded employments are contained in RCW 51.12.020 and include certain partners and corporate officers.

Title 25 RCW governs the establishment, maintenance, continuation, and dissolution of partnerships. Title 23A RCW governs the formation, merger, consolidation, sale, and dissolution of corporations.

To carry forward the intent of both the coverage and exclusion provisions of Title 51 RCW and exercising the authority granted in RCW 51.04.020(1), the department does hereby establish and promulgate rules governing the assessment of premiums as it pertains to certain partners and corporate officers.

(1) Corporate officers. RCW 51.12.020(8) exempts from mandatory coverage those corporate officers who

also concurrently sit on the corporation's board of directors and own stock in the corporation. It is not uncommon for corporations to issue various classes of stock. Not all classes of stock issued include voting rights in the overall management and direction of the company. The underlying intent of the corporate officer exemption is to exclude from coverage only those officers meeting the two prong test of share holder and director who are in a position similar to a proprietor to direct and control the business. In applying this exemption, the department will consider corporate officers exempt from coverage when they are elected to and sit on the corporation's board of directors and are in a position similar to a proprietorship to direct and control the business. Any corporate officer not meeting the above test who performs services for the corporation and receives compensation, either actual or anticipated, shall be reported as a worker on the corporation's quarterly report of payroll and premiums paid on his/her behalf for workers compensation insurance.

(2) Partners. RCW 51.12.020(5) exempts from mandatory coverage partners other than those partnerships who after July 26, 1981, registered for the first time under chapter 18.27 RCW or become licensed for the first time under chapter 19.28 RCW. Partners of a partnership established after July 26, 1981, that fall within the mandatory provisions of the Industrial Insurance Act can voluntarily withdraw from coverage as provided for in RCW 51.12.115. Partnerships established in accordance with Title 25 RCW fall under the categories of general or limited. The underlying intent of the partner exemption is to only exempt from coverage those partners who are in a position to direct and control the business. These individuals are identified in the partnership agreement as "general" partners. Limited partners for the purposes of industrial insurance coverage will be considered to be employees of the partnership when they perform services for the partnership and receive compensation either actual or anticipated as distinguished from a distribution of profits and shall be reported on the partnership's quarterly report of payroll and premiums paid on their behalf.

WSR 88-06-049
PROPOSED RULES
LOTTERY COMMISSION
[Filed March 1, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery intends to adopt, amend, or repeal rules concerning:

New	WAC 315-11-320	Definitions for Instant Game Number 32 ("Double Decker").
New	WAC 315-11-321	Criteria for Instant Game Number 32.
New	WAC 315-11-322	Ticket validation requirements for Instant Game Number 32;

that the agency will at 10:00, Friday, April 8, 1988, in the Sea-Tac Tower I Building, 5th Floor, Suite 500,

18000 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 8, 1988.

Dated: March 1, 1988

By: Scott Milne
Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-11-320 Definitions for Instant Game Number 32 ("Double Decker"); 315-11-321 Criteria for Instant Game Number 32; and 315-11-322 Ticket validation requirements for Instant Game Number 32.

Statutory Authority: RCW 67.70.040.

Specific Statute that Rules are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-11-320 provides definitions of the terms used in Instant Game Number 32 rules; WAC 315-11-321 sets forth criteria for Instant Game Number 32; and WAC 315-11-322 states the ticket validation requirements for Instant Game Number 32.

Reasons Supporting the Proposed Rule(s): WAC 315-11-320, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-320 and 315-11-322; WAC 315-11-321, licensed retailers and players of Instant Game Number 32 need to know how the game will function. Specifying the criteria which apply to Instant Game 32 will provide this information; and WAC 315-11-322 tickets for Instant Game Number 32 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets.

Agency Personnel Responsible for Drafting: Judith Giniger, Contract Specialist 3, Washington State Lottery, P.O. Box 9770, Olympia, Washington 98504, (206) 586-1088; **Implementation and Enforcement:** Washington State Lottery Commission, (206) 753-1412, Evelyn Y. Sun, Director, (206) 753-3330, Scott Milne, Deputy Director, (206) 753-3334, Roger Wilson, Assistant Director, (206) 586-1065, and Candice Bluechel, Assistant Director, (206) 753-1947, Washington State Lottery, P.O. Box 9770, Olympia, Washington 98504.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing this Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding the Statutory Language, Implementation,

Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal/state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The Office of the Director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses, large and small, which voluntarily apply to be licensed retailers for the sale of lottery tickets, or contractors who provide other services to the Office of the Director, Washington State Lottery, or who voluntarily interact with the Office of the Director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to, or interact with, the Office of the Director, Washington State Lottery.

NEW SECTION

WAC 315-11-320 DEFINITIONS FOR INSTANT GAME NUMBER 32 ("DOUBLE DECKER"). (1) **Play symbols:** The following are the "play symbols":

\$1.00
\$5.00
\$10.00
\$50.00
\$500



One of these play symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) **Captions:** The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 32, the captions which correspond with and verify the play symbols are:

PLAY NUMBER	CAPTION
\$1.00	ONE DOL
\$5.00	FIV DOL
\$10.00	TEN DOL
\$50.00	\$FIFTY\$
\$500	FIV HUN
	JOKER

(3) **Validation number:** The unique nine-digit number on the front of the ticket. The number is covered by latex covering.

(4) **Pack-ticket number:** The ten-digit number of the form 2000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 32 constitute the "pack number" which starts at 2000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) **Retailer verification codes:** Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners below \$25. For Instant Game Number 32, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of eight locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-321 CRITERIA FOR INSTANT GAME NUMBER 32. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three	\$1.00 play symbols	- Win	\$1.00
Two	\$1.00 play symbols and one 	- Win	\$2.00
Three	\$5.00 play symbols	- Win	\$5.00
Two	\$5.00 play symbols and one 	- Win	\$10.00
Three	\$10.00 play symbols	- Win	\$10.00
Two	\$10.00 play symbols and one 	- Win	\$20.00
Three	\$50.00 play symbols	- Win	\$50.00
Two	\$50.00 play symbols and one 	- Win	\$100.00
Three	\$500.00 play symbols	- Win	\$500.00
Two	\$500.00 play symbols and one 	- Win	\$1000.00

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 32 set forth in WAC 315-11-322, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

- (a) Vary the length of Instant Game Number 32; and/or
- (b) Vary the number of tickets sold in Instant Game Number 32 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-322 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 32. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 32 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the main portion of the ticket.

(b) Each of the six play symbols must have a caption underneath, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Ealing 15 point font
Captions	5 x 12 Matrix font
Pack-Ticket Number	9 x 12 Matrix font
Validation Number	9 x 12 Matrix font
Retail Verification Code	7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-320(1) and each of the captions must be exactly one of those described in WAC 315-11-320(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

WSR 88-06-050

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 88-06—Filed March 1, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these regulations are necessary for the conservation of halibut stocks and are adopted at the recommendation of the International Pacific Halibut Commission.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-56-25500B HALIBUT—SEASON. Effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use from state waters or to land halibut taken for personal use from offshore waters into Washington State ports, except during the seasons provided for in this section:

- (1) All waters east of the Bonilla-Tatoosh Line.
 - (a) Open March 1 until further notice.
 - (b) Daily bag limit – 1 Pacific halibut.
- (2) All waters west of the Bonilla-Tatoosh Line.
 - (a) Open May 1 until further notice.
 - (b) Daily bag limit – 2 Pacific halibut

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500A HALIBUT—SEASON. (87-204)

Reviser's note: The spelling error in the above repealer occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-06-051

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**
[Memorandum—March 1, 1988]

The Washington State Human Rights Commission will hold its next regular commission meeting in Tacoma on March 23 and 24, 1988. The meeting on March 23 will be held at the Tacoma Dome Hotel, McAllister West Room, 2611 East "E" Street, Tacoma, beginning at 7:00 p.m. and will be a training and work session. The regular business meeting will be held at the Tacoma County-City Building, Room 214-A, 930 Tacoma Avenue South, Tacoma, beginning at 9:30 a.m. on March 24. The main topic of discussion for the March meeting will be employment/age.

WSR 88-06-052

**PROPOSED RULES
HORSE RACING COMMISSION**
[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning:

New	WAC 260-34-010	Primary purpose.
New	WAC 260-34-020	Intoxication.
New	WAC 260-34-030	Testing.
New	WAC 260-34-040	Definition of licensee and employees.
New	WAC 260-34-050	Reasonable suspicion.
New	WAC 260-34-060	Refusal to test.
New	WAC 260-34-070	Responsibility to report valid prescriptions.
New	WAC 260-34-080	Testing procedure.
New	WAC 260-34-090	Positive test.
New	WAC 260-34-100	Confidentiality test results.
New	WAC 260-34-110	Consumption of alcohol.
New	WAC 260-34-120	Alcohol violations defined.
New	WAC 260-34-130	Consumption—Reasonable suspicion for testing.
New	WAC 260-34-140	Alcohol levels determined.
New	WAC 260-34-150	Alcohol testing.
New	WAC 260-34-160	Refusal to be tested.
New	WAC 260-34-170	Alcohol violation sanctions.
New	WAC 260-34-180	Testing;

that the agency will at 1:00 p.m., Tuesday, April 5, 1988, in the Sea-Tac Red Lion, 18740 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 1, 1988.

Dated: March 1, 1988
By: John Crowley
Executive Secretary

STATEMENT OF PURPOSE

In the matter of adopting WAC 260-34-010, 260-34-020, 260-34-030, 260-34-040, 260-34-050, 260-34-060, 260-34-070, 260-34-080, 260-34-090, 260-34-100, 260-34-110, 260-34-120, 260-34-130, 260-34-140, 260-34-150, 260-34-160, 260-34-170 and 260-34-180 relating to the rules of horse racing.

WAC 260-34-010 et seq. are proposed for adoption as indicated in the notice of intention to adopt rules filed this date with the code reviser.

The adoption of these rules is proposed pursuant to RCW 67.16.020 and 67.16.040 under the general rule-making authority of the Washington Horse Racing Commission.

The enactment of the new rules are for the following reasons: The Horse Racing Commission has determined that public safety is an important issue at the track. It seeks to ensure that licensees who participate in racing do not create a threat of harm or possible threat of harm to other participants in the race or those at the track; the perception of proper regulation of horse racing is important for the Horse Racing Commission in the fulfillment of its statutory obligations. In furtherance of the perception that racing is conducted on a high plane, the Horse Racing Commission is promulgating rules which help to ensure that persons with special difficulties in regard to alcohol or controlled substances are not creating a problem with that perception by their conduct; alcohol is a substance that is subject to wide regulation in the state in general and controlled substances, are, by definition, illegal. The Horse Racing Commission wants to make it absolutely clear that licensees will not be allowed to use alcohol or violate state laws in regard to controlled substances with respect to their conduct at the track or at points in time with a direct relationship to their conduct at the track; the intense scrutiny of licensees in horse racing is essential because, not only is it a highly regulated industry by history but, in light of the large amounts of money that are bet, the public confidence that must exist for this betting to take place and the possibility of any undue influence or improper influence in betting or gambling existing as it does, the need for this set of rules, with the policies outlined there, are essential for regulating oversight; and other states that the Horse Racing Commission has studied have promulgated and implemented rules with these same purposes. New Jersey, Ohio and other states have been using them and they have the same regulatory interests that Washington does.

John Crowley, Executive Secretary, Suites B & C, 210 East Union Avenue, Olympia, Washington 98504, phone 753-3741 and members of the Horse Racing Commission staff were responsible for the drafting of the enactment and amendments of these rules and are to be responsible for their implementation and enforcement.

The proponent of the enactment of these rules is the Washington Horse Racing Commission, Lyle Smith, Chairperson.

The Washington Horse Racing Commission recommends the adoption of these rules. They have been drafted in consultation with various parties and in some

cases, with consultation from members of the horse racing industry.

The enactment of these rules is not necessary as the result of action by the legislature or any court decision.

This certifies that copies of the statement are on file with the Horse Racing Commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Small Business Economic Impact Statement: The enactments listed above are not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

**Chapter 260-34 WAC
DRUG AND ALCOHOL TESTING OF LICENSEES AND EMPLOYEES**

WAC

260-34-010	Primary purpose.
260-34-020	Intoxication.
260-34-030	Testing.
260-34-040	Definition of licensee and employees.
260-34-050	Reasonable suspicion.
260-34-060	Refusal to test.
260-34-070	Responsibility to report valid prescriptions.
260-34-080	Testing procedure.
260-34-090	A positive test.
260-34-100	Confidentiality test results.
260-34-110	Consumption of alcohol policy.
260-34-120	Alcohol violations defined.
260-34-130	Consumption reasonable suspicion for testing.
260-34-140	Alcohol levels determined.
260-34-150	Alcohol testing.
260-34-160	Refusal to be tested.
260-34-170	Alcohol violation sanctions.
260-34-180	Testing expense.

NEW SECTION

WAC 260-34-010 PRIMARY PURPOSE. In order to protect the integrity of horse racing in the state of Washington, to protect the health and welfare of licensees and employees engaged in horse racing within the state of Washington, to prevent the exploitation of the public, licensees and/or employees engaged in horse racing in the state of Washington, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Washington, the horse racing commission intends to regulate at all race meets licensed by it, the use of any controlled substance as listed in chapter 69.50 RCW or any prescription legend drug unless such prescription legend drug was obtained directly and pursuant to a valid prescription from a duly licensed physician or dentist acting in the course of his or her professional practice. This chapter shall be applicable to any licensee or employee who is responsible for the conduct of, or the officiating of, a race or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet.

NEW SECTION

WAC 260-34-020 INTOXICATION. No licensee or employee of any racing association or any employee of the horse racing commission who is responsible for the conduct of, or officiating of a race or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet shall be under the influence of intoxicating liquor, the combined influence of intoxicating liquor and any drug, or under the influence of any narcotic or other drug while within the enclosure of any association. In addition, the personal use by any licensee or employee of any drug or abuse of any controlled substance as listed in chapter 69.50 RCW is prohibited without valid legal prescription.

NEW SECTION

WAC 260-34-030 TESTING. The board of stewards of the horse racing commission may require any licensee, employee of any racing association, or employee of the horse racing commission who is responsible for the conduct of, or officiating of, a race or whose duties include the training, exercising, riding, driving, or caring for a horse while the horse is on any association premises to participate in a horse racing meet, to provide blood and/or urine samples for the purpose of drug or alcohol analysis under any of the following circumstances:

(1) As part of a physical examination described in WAC 260-32-160.

(2) When there is reasonable suspicion to believe that the proposed testee has used any drug, narcotic, or controlled substance as defined in chapter 69.50 RCW or any prescription legend drug unless such prescription legend drug was obtained directly and pursuant to a valid medical prescription from a duly licensed physician or dentist acting in the course of his or her professional practice or, alcohol in excess of the limits prescribed in this chapter.

(3) At the discretion of the stewards when the proposed testee has a documented history of an unexplained positive test which indicates illegal drug usage or when the proposed testee has a documented history of sanction for drug usage or violation.

NEW SECTION

WAC 260-34-040 DEFINITION OF LICENSEE AND EMPLOYEES. For the purpose of this chapter, licensee or employee means and includes any person licensed or employed by the horse racing commission within the state of Washington or by any association whose duties include any of the following: Training, exercising, riding, driving, or caring for a horse while he/she is on the association grounds to participate in a horse racing meet, or any licensed racing official who is involved in the conduct of a horse racing meet including, but not limited to:

- (1) Apprentice jockey;
- (2) Assistant starter;
- (3) Assistant trainer;
- (4) Clerk of scales;
- (5) Dentist;
- (6) Driver;
- (7) Exercise boy/girl;
- (8) Groom;
- (9) Horseshoer;
- (10) Jockey;
- (11) Jockey agent;
- (12) Out rider;
- (13) Paddock judge;
- (14) Pony rider;
- (15) Racing judge;
- (16) Security officer;
- (17) Starter;
- (18) Steward;
- (19) Trainer;
- (20) Valet;
- (21) Veterinarian;
- (22) Veterinarian's assistant;

(23) Any other licensed personnel deemed appropriate by the horse racing commission where the person is involved in the conduct of a race.

NEW SECTION

WAC 260-34-050 REASONABLE SUSPICION. When ordering a drug or alcohol test based upon reasonable suspicion, the board of stewards may consider, but are not limited to, any of the following factors:

(1) Unexplained or continued rule violations which have a detrimental effect on racing.

(2) Involvement in any accident which causes injury to person or animal at the track as well as any near accident which created a clear danger of accident or injury to person or animal at the track.

(3) Willful conduct detrimental to horse racing as evidenced by continued rule violations, other disciplinary problems, behavioral problems, disturbances, or other similar conduct at the track.

(4) Observable physical or emotional impairment at the track.

(5) Involvement in a race of questionable outcome or circumstance as determined by the board of stewards in the exercise of their expertise.

(6) Willful abuse of animal or person who is engaged in a race, work, or exercise engagement at the track.

(7) Prior positive test or tests, excluding those where a valid legal prescription has been revealed.

(8) Performance of prescribed duties in a manner which indicates a best effort to win is not present at the track.

(9) Information supplied by a law enforcement agency, the thoroughbred racing protective bureau, or horse racing commission of any state or country which is verified in writing relating to drug or alcohol abuse or both.

(10) Any other physical conduct at the track which can be documented which would indicate the possibility of drug or narcotic dependence or usage, or alcohol abuse.

NEW SECTION

WAC 260-34-060 REFUSAL TO TEST. When any licensee or employee is requested to submit to a test in a manner prescribed by this chapter, he/she shall do so in a prompt manner. Refusal to supply such sample shall result in:

(1) Immediate suspension of the licensee or employee.

(2) A hearing before the board of stewards with written notice of the issue to be addressed prepared by the presiding steward, to be held within the next two racing days of the delivery of the notice or sooner if the licensee or employee and the board of stewards agree to it.

(3) The board of stewards shall confirm the facts with respect to the refusal to test at the hearing and where substantiated, the licensee or employee shall be suspended from racing for and until such time as a negative test has been obtained in conformance with this chapter.

(4) Continued refusal to submit to an ordered test will result in license revocation and banning from race meets in the state of Washington.

NEW SECTION

WAC 260-34-070 RESPONSIBILITY TO REPORT VALID PRESCRIPTIONS. Whenever any licensee or employee has been directed by the stewards to submit to a drug test and that licensee or employee is taking a substance pursuant to a valid prescription on order of a duly licensed physician or dentist, it shall be the licensee or employee's responsibility to give written notice to the chief of security, or his designated representative of the Washington horse racing commission containing the following:

(1) Name of the licensee or employee.

(2) The quantity and dosage of the substance prescription.

(3) The name of the duly licensed physician or dentist prescribing same.

(4) The date the prescription was prescribed.

All such notices shall become part of the records of the drug test and preserved to maintain strict confidentiality of the contents.

NEW SECTION

WAC 260-34-080 TESTING PROCEDURE. (1) When the drug testing is a result of a required physical examination or as described in WAC 236-34-030, the licensee or employee will report to the specified physician where a member of the medical staff will supervise the sample being given. The supervision need not include actual observance of the delivery of the sample but the sample shall be taken under such circumstances that the integrity of the sample is maintained without unnecessarily interfering with the individual rights of the licensee including the right to be free from unnecessary embarrassment. Intentional contamination of the sample by any licensee which is likely to prevent appropriate analysis of the sample shall be grounds for the suspension or revocation of the licensee's license. Any sample shall be placed in a container and sealed together with a double identification tag in the presence of the person being tested. One portion of such tag bearing a printed identification number shall remain with the sealed container. The other portion of such tag bearing the same printed identification number, shall be detached in the presence of the person tested and a member of the medical staff and the chief of security or his designated representative of the horse racing commission. The licensee or employee will attest by signature on the tag to indicate witnessing such action. The member of the medical staff and the chief of

security or his designated representative of the horse racing commission will further attest by signature to indicate witnessing such action. The sample will then be handled in a manner consistent with an evidentiary chain of custody by the chief of security or his designated representative of the horse racing commission throughout the transportation and laboratory testing process. The sample and the tag identifying same which is to be provided to the laboratory for analysis shall not identify the person by name, but only by number assigned and recorded by the chief of security or his designated representative of the horse racing commission.

(2) When the testing is to be done as a result of reasonable suspicion or the result of mandatory testing being conducted after a positive test, the same procedure for handling the specimen shall be utilized, but the sample may be taken at the track and witnessed by the chief of security or his designated representative of the horse racing commission. The witness must be of the same sex as the person being tested. After the sample is taken and sealed, the chief of security or his designated representative of the horse racing commission will be responsible for the evidentiary chain of custody and transportation of the sample to the laboratory. The chief of security of the horse racing commission will maintain a checklist of procedures in implementing these steps which will be marked as they are carried out and it will be maintained as part of security records.

NEW SECTION

WAC 260-34-090 A POSITIVE TEST. In order to be considered positive, any test must be confirmed by at least two independent testing methods which are state-of-the-art as determined by the laboratory conducting the tests. If marijuana is detected, it will not be reported positive unless found at the level of one hundred nanograms per milliliter.

A positive controlled substance or prescription drug result shall be reported by the laboratory to the presiding steward at the track. On receiving written notice from the laboratory that a specimen has been found positive for a controlled substance or prescription legend drug, the procedure shall be as follows:

(1) The presiding steward shall give notice to the licensee or employee in writing, setting a hearing by the board of stewards within the next two racing days of delivery of the notice or sooner if the licensee or employee and the board of stewards agree.

(2) At the hearing, the licensee or employee shall be provided an opportunity to explain the positive test.

(3) This hearing shall be closed and the findings kept confidential unless for use with respect to any order issued pursuant to this chapter or any administrative or judicial hearing with regard to such a finding.

(4) Lacking a satisfactory explanation and documentation or upon the licensee or employee agreeing with the test results, the board of stewards shall:

(a) Suspend the licensee or employee until such time as a negative test can be submitted by that licensee or employee and the results reviewed by the board of stewards.

(b) Refer the licensee or employee to an approved agency for a drug evaluation interview. If after such evaluation, the licensee or employee's condition proves nonaddictive and not detrimental to the best interests of racing as determined by the board of stewards, the licensee or employee shall be allowed to participate in racing provided he or she agrees that further testing may be done as described in WAC 260-34-030(3).

(c) If, after such professional evaluation, the licensee or employee's condition proves addictive or detrimental to the best interests of racing, the licensee or employee shall not be allowed to participate in racing until such time as he or she can produce a negative test result and show official documentation that he or she has successfully completed a certified drug rehabilitation program approved by the board of stewards, in consultation with the executive secretary of the horse racing commission. The licensee or employee must agree to further testing as described in WAC 260-34-030(3).

(5) For a second offense in the calendar year, the licensee or employee shall be suspended for the balance of the calendar year or one hundred twenty days, whichever is greater, and he or she is required to complete a certified drug rehabilitation program approved by the board of stewards in consultation with the executive secretary of the horse racing commission before applying for a reinstatement of license.

(6) When any licensee or employee has a history of more than two drug-related violations of this chapter, that licensee or employee may be declared detrimental to the best interests of racing and sanctioned as such.

NEW SECTION

WAC 260-34-100 CONFIDENTIALITY TEST RESULTS. The chief of security of the horse racing commission shall maintain all test results and records, both negative and positive, confidential. He shall document the process which will ensure the confidentiality of the handling of such results. Information contained in the test results shall remain confidential at all times except for use with respect to any order issued pursuant to this chapter or any administrative or judicial hearing with regard to such an order. Access to the reports of any test results shall be limited to the board of stewards, the chief of security of the commission at the track, and the person being tested, except in the instance of a contested matter. The information obtained as a result of a test being required under the rules of the horse racing commission shall be considered privileged and shall be used for administrative purposes only and, further, shall be exempt from use as evidence in any criminal prosecution involving the violation of offenses listed in chapter 69.50 RCW.

NEW SECTION

WAC 260-34-110 CONSUMPTION OF ALCOHOL POLICY. It is the policy of the horse racing commission that no alcohol be consumed from one hour prior to the start of the first race until the completion of assigned duties for that race day for the following licensees and employees:

- (1) Washington horse racing commission employees.
- (2) Any licensee or employee who might affect the outcome of any race.
- (3) Any licensee or employee who handles or is responsible for handling any horse on the association grounds that race day.

NEW SECTION

WAC 260-34-120 ALCOHOL VIOLATIONS DEFINED. The testing for any licensee or employee for use of alcohol shall be done upon an order of the board of stewards based upon reasonable suspicion to believe that the licensee or employee has consumed alcohol as described in WAC 260-34-020 or 260-34-110.

NEW SECTION

WAC 260-34-130 CONSUMPTION REASONABLE SUSPICION FOR TESTING. A documented report of observed consumption of alcohol by a licensee or employee not in keeping with the policy described in WAC 260-34-110 by any horse racing commission employee or by any track administration security officer may be deemed reasonable suspicion for alcohol testing of that licensee or employee.

NEW SECTION

WAC 260-34-140 ALCOHOL LEVELS DETERMINED. For the purpose of this chapter, licensees and employees shall be considered to have consumed alcohol in violation of WAC 260-34-020 or 260-34-110 when a test results in a blood alcohol level of .05 percent or more.

NEW SECTION

WAC 260-34-150 ALCOHOL TESTING. The testing of any licensee or employee to determine blood level of alcohol shall be by the method and procedure approved by the Washington state patrol or by a blood alcohol test if requested by the licensee or employee, such blood alcohol test must be supervised in a manner prescribed by the horse racing commission. If a blood test is requested, the expense of same shall be borne by the requesting licensee or employee.

NEW SECTION

WAC 260-34-160 REFUSAL TO BE TESTED. Any licensee or employee who refuses to be tested for alcohol consumption after receiving a written order from the stewards shall be suspended immediately and must leave the association grounds. The licensee or employee may be subject to further sanctions at a stewards hearing. The stewards may lift the suspension at their discretion.

NEW SECTION

WAC 260-34-170 ALCOHOL VIOLATION SANCTIONS. (1) For a first alcohol offense within a calendar year, the penalty is two days suspension.

(2) For a second alcohol offense within a calendar year, the penalty is two days suspension and a mandatory evaluation by a certified alcohol treatment program approved by the executive secretary of the horse racing commission.

(3) For a third offense within a calendar year, the penalty is fourteen days suspension and enrollment and completion of a certified alcohol treatment program approved by the executive secretary of the horse racing commission.

NEW SECTION

WAC 260-34-180 TESTING EXPENSE. All testing, whether blood, urine, or breath, ordered pursuant to this chapter shall be at the expense of the horse racing commission. All expense of drug and/or alcohol evaluation, treatment, reports, and fees shall be at the expense of the licensee or employee undergoing such evaluation or treatment.

WSR 88-06-053**ADOPTED RULES****PUGET SOUND****WATER QUALITY AUTHORITY**

[Order 88-01—Filed March 2, 1988]

Be it resolved by the Puget Sound Water Quality Authority, acting at Olympia, Washington, that it does adopt the annexed rules relating to local planning and management of nonpoint source pollution. These rules establish guidelines, criteria, and procedures for local governments to use in carrying out planning and implementation activities to control nonpoint source pollution, pursuant to elements NP-2, NP-8, and NP-9 of the 1987 Puget Sound water quality management plan.

This action is taken pursuant to Notice Nos. WSR 87-22-065 and 88-04-023 filed with the code reviser on November 4, 1984 [1987], and January 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.70.055 and 90.70.060 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 17, 1988.

By Katherine Fletcher
Chair

**Chapter 400-12 WAC
LOCAL PLANNING AND MANAGEMENT OF
NONPOINT SOURCE POLLUTION**

WAC

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PART ONE AUTHORITY/PURPOSE

NEW SECTION

WAC 400-12-100 AUTHORITY. This chapter is promulgated by the Puget Sound water quality authority pursuant to chapter 90.70 RCW.

(1) It is the intent of this chapter that the department of ecology coordinate all aspects of this program, including interpreting this chapter for local entities, state agencies, tribes, and affected parties as they carry out

their responsibilities under this chapter, and that the department shall consult with the authority as needed regarding the interpretation of this chapter.

(2) As required by RCW 90.70.070, the authority shall review the progress of state agencies and local governments regarding timely implementation of programs established pursuant to this chapter.

(3) Pursuant to RCW 90.70.080, local governments and state agencies are authorized to adopt ordinances, rules, and/or regulations to implement action plans.

NEW SECTION

WAC 400-12-110 PURPOSE. The purpose of this chapter is to establish criteria and procedures for ranking watersheds and for developing and implementing action plans for watersheds most in need of corrective and/or preventive actions.

NEW SECTION

WAC 400-12-120 APPLICABILITY. This chapter applies to the Puget Sound basin as identified by RCW 90.70.060 and does not apply outside of the Puget Sound basin. Approved early action watersheds that are underway when this chapter becomes effective are not required to follow specific detailed provisions of this chapter; however, early action planning processes must be consistent with the purpose and goals of the plan and as practicable with this chapter.

PART TWO GENERAL REQUIREMENTS

NEW SECTION

WAC 400-12-200 DEFINITIONS. For the purposes of this chapter, the following definitions shall apply:

(1) "Action plan" means a locally developed and implemented plan to prevent and control nonpoint pollution in a priority watershed or an early action watershed.

(2) "Affected parties" means both those whose beneficial use of water is being impaired, or potentially impaired, by nonpoint pollution and those groups associated with the nonpoint sources of pollution identified in WAC 400-12-510(4).

(3) "Authority" means the Puget Sound water quality authority.

(4) "Beneficial uses" means uses identified by Water quality standards for waters of the state of Washington (chapter 173-201 WAC) as desirable uses for given classes of waters, such as water supplies for domestic, industrial, or agricultural purposes; fish, shellfish, and wildlife habitat; recreation; and navigation.

(5) "Best management practices" means agricultural, structural, and/or managerial practices that, when used singly or in combination as part of an approved site development plan or farm plan, provide minimum essential action or treatment needed to solve, prevent, or reduce site-specific water quality problems.

(6) "Consultations" include informal meetings with representatives or small groups of interested or affected

parties for the purpose of discussing problems or solutions or sharing information.

(7) "Department" means the Washington state department of ecology.

(8) "Document review" means solicitation of comment from interested and affected parties on reports, proposals, or plans during various stages of development of action plans.

(9) "Early action watersheds" means those watersheds selected by the department for development of action plans prior to promulgation of this chapter.

(10) "Failed," "failing," or "failure" of an on-site sewage disposal system shall include, but not be limited to, the occurrence of any one, or combination of, the following factors:

(a) The system cannot accept sewage effluent at the design rate, resulting in interference with plumbing fixture use;

(b) Sewage effluent exceeds the infiltrative capacity of the soil resulting in objectionable odors, ponding, seepage, or other discharge of the effluent to the ground surface or surface water; and/or

(c) Sewage effluent from the system results in contamination of a potable water supply, groundwater, or surface water.

(11) "Farm" means a property where domesticated animals are kept to provide primary or supplemental income, for personal consumption, or for recreational use, or where crops are grown for resale.

(12) "Farm plan" means a site-specific plan developed by a farm operator in cooperation with a resource agency (such as those developed under the "208" water quality management program with assistance of a conservation district or the soil conservation service) and approved by the conservation district board of supervisors, for managing resources to protect water quality.

(13) "Federal agencies" means units of the federal government having major facilities or substantial land holdings in the watershed, such as the Departments of Defense, Interior, Agriculture, or Transportation.

(14) "Groundwater management areas" means areas designated and defined in chapter 173-100 WAC and administered by the department.

(15) "Implementing entity" means a federal or state agency, Indian tribe, local government, or special purpose district responsible for carrying out the day-to-day activities of the applicable provisions of an action plan once it is approved by the department and, where applicable, adopted by the legislative body of the entity.

(16) "Lead agency" means any entity selected in accordance with WAC 400-12-300 with responsibility for convening the watershed ranking committee, or in accordance with WAC 400-12-400 with responsibility for coordinating the development and implementation of an action plan for a watershed. In both cases, the lead agency must be a governmental jurisdiction with power to pass resolutions, enact ordinances, and appropriate funds for expenditure; an Indian tribe recognized as such by the federal government with territory or usual and accustomed fishing grounds within waters in or adjacent to the county; a conservation district; a metropolitan municipal corporation; or a council of governments.

(17) "Local government" means the city or town council, board of county commissioners, county council, special purpose district commission, metropolitan municipal corporation, council of governments, or that body assigned legislative duties by a city, county, or district charter.

(18) "Nonpoint source pollution" or "nonpoint pollution" means pollution that enters any waters of the state within Puget Sound from any dispersed land-based or water-based activities, including but not limited to atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels.

(19) "On-site sewage disposal system" means a septic tank and drainfield or alternative treatment and disposal system as defined in chapter 248-96 WAC.

(20) "Pesticides" means those substances intended to control pests and unwanted plants as defined in chapter 15.58 RCW.

(21) "Plan" means the 1987 Puget Sound water quality management plan and amendments.

(22) "Planning entity" means a governmental or non-governmental body that prepares reports, makes recommendations, and participates in developing an action plan. An agency may serve both as a planning entity and implementing entity.

(23) "Prevention" means application of laws, ordinances, administrative procedures, and/or land management practices or education and public involvement programs which reduce or eliminate the potential for non-point pollution.

(24) "Public hearing" means a formal public meeting to take testimony on a pending action.

(25) "Public meeting" means an informal public proceeding, including a workshop, that informs the public and provides an opportunity for the public to ask questions and voice opinions.

(26) "Public notification" means use of public information techniques to ensure that:

(a) Information on decisions to be made or actions to be taken is complete and understandable;

(b) A full explanation is provided on the effects of decisions or actions on the public, especially the effects on specific groups or geographic areas; and

(c) The ways in which the public may influence the decision-maker and appeal the decision are explained.

(27) "Puget Sound" means all salt waters of the state of Washington inside the international boundary line between the state of Washington and the province of British Columbia, the Strait of Juan de Fuca, and, to the extent that they affect water quality in Puget Sound, all waters flowing into Puget Sound, and adjacent lands.

(28) "Regional watershed" means a large geographic region draining into a major river or body of water as identified and numbered by the state of Washington water resource inventory areas (WRRIAs) as defined in chapter 173-500 WAC.

(29) "Regulation" means laws, rules, or ordinances to establish legal standards or administrative procedures to control nonpoint pollution.

(30) "Source control programs" or "source control strategy" means programs using education, technical and financial assistance, regulation, monitoring, and/or enforcement to control, prevent, and mitigate nonpoint pollution from on-site sewage disposal, agricultural practices, stormwater and erosion, forest practices, marinas and boats, and other residential, agricultural, commercial, and industrial sources, and other sources.

(31) "Special purpose district" means a district established pursuant to statute or ordinance in a specific geographic area to carry out specific responsibilities which are related to water quality such as soil and water conservation, port development and management, or on-site sewage disposal system maintenance.

(32) "Special surveys" means intensive assessments of land use and water quality designed to obtain information on specific sources or pollutants not available through routine water sampling.

(33) "State-wide forest practices program" means chapter 76.09 RCW, the Washington state Forest Practices Act; forest practices regulations as adopted by the state forest practices board and the department of ecology; administration of the Forest Practices Act and regulations; and implementation of the Timber, Fish, and Wildlife Agreement.

(34) "Subwatershed" means a geographic and hydrologic subunit of a watershed or regional watershed.

(35) "Technical assistance" means service provided by state, tribal, or federal agencies to assist local entities in watershed ranking and/or action plan development and implementation.

(36) "208 water quality management plans" means nonpoint source control plans prepared in accordance with Section 208 of the Federal Clean Water Act.

(37) "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the state of Washington resource inventory areas (WRIs) as defined in chapter 173-500 WAC.

(38) "Watershed management committee" means a local committee formed to develop an action plan in accordance with criteria set forth in this chapter and in the plan.

(39) "Watershed ranking committee" means a committee convened to identify and rank all of the watersheds within a county in accordance with criteria set forth in this chapter and as generally described in the plan.

(40) "Watershed rating criteria for nonpoint sources of pollution" means criteria developed by the United States Department of Agriculture Puget Sound Cooperative River Basin Study team to rank watersheds.

(41) "Water quality violation" means a violation of local, state, and/or federal water quality laws or regulations.

(42) "Wetlands" means lands defined using criteria contained in the United States Department of Interior Fish and Wildlife Service "Classification of Wetlands and Deepwater Habitats of the United States."

NEW SECTION

WAC 400-12-210 OVERVIEW. (1) This chapter establishes a process to identify and rank watersheds in the Puget Sound basin and to develop action plans to prevent nonpoint source pollution, enhance water quality, and protect beneficial uses.

(2) Each county will convene a committee to rank the watersheds wholly or partly within the county boundaries, using criteria set forth in this chapter. Local watershed management committees will be formed to develop action plans for the ranked watersheds. The lead agency will submit completed action plans to the department for approval. Each action plan may be implemented through voluntary actions; local ordinances; or a combination thereof; and/or local, state, and federal laws, regulations, and programs.

(3) Technical assistance from state agencies will be available to committees and implementing entities during watershed ranking, development of action plans, and implementation. Substantial involvement by both the general public and affected parties shall be sought in all phases of watershed ranking and action plan development. If action plans are ineffective, revision can be proposed according to procedures outlined in the watershed action planning process and/or required by the department.

NEW SECTION

WAC 400-12-220 PUBLIC INVOLVEMENT. (1) In addition to the provisions of this chapter, public involvement shall be conducted in accordance with public involvement policies of the plan and chapter 42.30 RCW.

(2) Meaningful and substantive participation by the general public and affected parties shall be provided as follows except where otherwise specified in this chapter:

(a) The lead agency shall regularly provide written information on the watershed ranking process and the action planning process to all interested and affected local governments, special purpose districts, state and federal agencies, Indian tribes, the general public, and other interested parties, informing them of progress and pending decisions.

(b) The watershed ranking committee and the watershed management committee shall provide:

(i) Adequate opportunities for public comment both early in the watershed ranking and action planning process, and at appropriate times throughout, including after preparation of draft documents from Phase 1 of the action planning process. Public meetings, consultations, and document reviews shall be used with other appropriate means to solicit public comment. The results from these activities shall be reported to either the watershed ranking committee or watershed management committee, as appropriate; and

(ii) Public notification shall be provided sufficiently in advance of public meetings and public hearings to allow the general public and affected parties adequate time to consider the decision in question. Local entities may use existing public hearing procedures provided these procedures are consistent with this chapter.

PART THREE WATERSHED RANKING PROCESS

NEW SECTION

WAC 400-12-300 WATERSHED RANKING COMMITTEES. (1) Lead agency. The county is assumed to be the lead agency for the watershed ranking process. However, the watershed ranking committee may, in consultation with the department and in accordance with WAC 400-12-200(16), select a lead agency other than the county, where circumstances warrant.

(2) Lead agency responsibilities. The lead agency shall coordinate and oversee the watershed ranking process. Duties will include responsibility for grant applications and administration, scheduling and coordinating meetings of the watershed ranking committee, presenting draft materials to the committee for review, delegating tasks to committee members, and performing other duties as necessary to carry out the ranking task.

(3) Membership. The county shall contact by letter all local government legislative authorities, special purpose districts, and tribes with usual and accustomed fishing grounds within or adjacent to the county, and invite each entity or category of entity to choose a representative to serve on the watershed ranking committee. In counties with numerous incorporated communities, committees shall include at least one representative from each population category of city or town as identified in chapter 35.01 RCW. The lead agency shall ensure that the general public and affected parties are included either on the watershed ranking committee or on a separate citizen advisory committee. If a separate citizen advisory committee is used, the watershed ranking committee shall frequently consult with the citizen advisory committee during the course of the watershed ranking process.

NEW SECTION

WAC 400-12-310 WATERSHED RANKING PROCESS AND CRITERIA. (1) Information gathering. The watershed ranking committee shall request planning entities to compile nonpoint source pollution-related data and report this information to the committee. This information is to describe water quality, habitat, biological conditions, and land use for all the watersheds in the county. Information gathering is to take place through cooperative efforts among planning entities coordinated by the lead agency. Source materials are to include existing local, state, and federal information and any necessary additional water quality information, provided it can be collected in a timely manner. This information is to be used in applying the ranking criteria specified in subsection (2) of this section to the watersheds to be ranked.

(2) Ranking method.

(a) The watershed ranking committee shall then rank all watersheds, including multicounty watersheds, in the county in order of need for preventive and/or corrective actions. The use of consensus in the ranking process is encouraged. The criteria in program element NP-1 of the plan and the watershed rating criteria for nonpoint

sources of pollution are to be used for watershed ranking. Alternative methods of ranking, consistent with the criteria specified in the plan, may be used with prior approval from the department.

(b) In counties with regional watersheds too large for practical development and implementation of a single action plan, the committee shall rank subwatersheds in those regional watersheds.

(c) Because the purpose of ranking is to establish the order in which the action planning process will start in the watersheds of the county, early action watersheds shall not be ranked. However, for early action watersheds that include major river systems, the early action watershed management committee shall attempt to reach a consensus on which subwatersheds, if any, should be included in the overall ranking, and inform the ranking committee by July 1, 1988. In the event that consensus cannot be reached within the watershed management committee on which, if any, subwatersheds should be ranked, the lead agency for the early action watershed shall decide and inform the ranking committee. These subwatersheds shall then be ranked by the ranking committee along with the other watersheds in the county.

(3) Public involvement. The watershed ranking committee shall conduct its public involvement program in accordance with the provisions of WAC 400-12-220. In addition, the committee shall conduct at least one public hearing in the county on the proposed ranking.

(4) Final ranking submittal. Following consideration of comments made on the proposed ranking, the committee shall forward the final ranking to the lead agency for submittal to the department. The final ranking shall include:

- (a) Documents showing compliance with SEPA;
- (b) A report on the procedures used;
- (c) Maps showing all watershed boundaries; and
- (d) Identification of: (i) Rationale for priorities, (ii) probable nonpoint sources, (iii) all local jurisdictions and special purpose districts having territory in each watershed, and (iv) affected tribes. The first ranking is to be submitted by January 1, 1989.

(5) Allocation of funds. The department shall allocate available funds for developing nonpoint watershed action plans in the Puget Sound basin equitably among Puget Sound counties and in the order that watersheds appear on the committee's final ranking. In allocating available funds to implement approved action plans, the department shall consider implementation schedules in the action plans and geographic distribution, as well as other appropriate factors. In allocating funds, the department shall consider both the need to encourage new planning efforts in all counties and to support implementation of approved action plans.

NEW SECTION

WAC 400-12-320 FIVE-YEAR REVIEW. The lead agency shall reconvene a watershed ranking committee at least every five years to evaluate the ranking based on the results of implementation of action plans and/or new information. Previously unranked early action watersheds shall be ranked at that time.

PART FOUR PREPARATION FOR WATERSHED ACTION PLANNING

NEW SECTION

WAC 400-12-400 LEAD AGENCY FOR WATERSHED PLANNING. (1) **Designation.** For watersheds within a single county, the county is responsible for the formation of watershed management committees and is the lead agency for preparation of watershed plans, except as described in subsection (3) of this section.

(2) **Responsibilities.** The lead agency shall coordinate the activities necessary to develop and implement the action plan, submit the action plan to the department for approval, administer the grant to develop or implement the action plan, coordinate SEPA review, oversee plan implementation, and perform other such duties as necessary to carry out the action planning or implementation process. To reduce duplication of effort, the lead agency shall also be responsible for coordinating the activities of the watershed management committee with other existing water management programs (e.g., groundwater). Coordination and integration of local efforts related to ground- and surface water is strongly encouraged. If a joint groundwater and watershed management program is established, the county shall be the lead agency for the joint program. The joint program shall comply with the requirements of chapter 173-100 WAC.

(3) **Exceptions.** After it is convened by the county, the watershed management committee may select another lead agency if that entity meets the requirements set forth in this chapter. If the county does not act as the lead agency, it shall serve on the committee and shall participate in local review of the action plan as described in Part Five of this chapter. When the watershed is wholly or mostly within a city, state park, Indian reservation, or other similar jurisdiction, the entity with such jurisdiction shall be the lead agency unless another arrangement is negotiated with the committee. In multicounty watersheds, the counties may agree on a temporary lead or may jointly convene the committee. However, in multicounty watersheds, only one lead agency shall be chosen by the counties involved to carry out the responsibilities of a lead agency during the action planning process. Where a joint groundwater and watershed management program is established, a city may be designated as the lead agency if both the groundwater and watershed management plan areas are wholly or mostly within the city.

NEW SECTION

WAC 400-12-410 WATERSHED MANAGEMENT COMMITTEES. (1) **Responsibilities.** The watershed management committee shall be responsible for developing the action plan. In addition to the responsibilities identified in Parts Five, Six, and Seven of this chapter, the committee shall:

(a) Prepare and record rules for conducting meetings, develop a decision-making process that is appropriate to the committee, and establish procedures for a dispute

resolution process. Use of consensus in making decisions is encouraged;

(b) Prepare a work plan and schedule for the development of the action plan, pursuant to WAC 400-12-420, which identifies:

(i) The roles and responsibilities of members of the committee as mutually agreed upon;

(ii) A strategy for public participation consistent with this chapter;

(iii) When SEPA compliance is to take place pursuant to WAC 197-11-055; and

(iv) The lead agency for coordinating SEPA compliance; and

(c) In addition to the requirements of WAC 400-12-220, comply with the following provisions for public involvement:

(i) Hold appropriate consultations, document review with interested parties including the department, and public meetings for the documents developed during each phase of the action planning process specified in WAC 400-12-510 and 400-12-520; and

(ii) Conduct at least one public hearing on the draft action plan in accordance with WAC 400-12-560(2).

(2) In addition to its responsibilities under WAC 400-12-220 and 400-12-560 the lead agency, in cooperation with the watershed management committee, shall also carry out the following activities for the watershed management committee:

(a) Incorporate the work plan and schedule agreed to by the committee into the grant agreement with the department;

(b) Review the action plan to determine whether it is consistent with the requirements of this chapter and report its findings to the committee;

(c) Inform federal agencies with jurisdiction in the watershed of action plan requirements to ensure compliance with 33 U.S.C. Section 1323 and to assist federal agencies in the review of their activities pursuant to Section 319 of the Clean Water Act, 33 U.S.C. 1251 et seq., if applicable; and

(d) Inform local and state agencies that either have jurisdiction over any property or facility, or are engaged in any activity resulting in nonpoint pollution in the watershed, of their role or responsibility in the action plan pursuant to WAC 400-12-570.

(3) **Membership.** The watershed management committee process shall be structured to involve planning and potential implementing entities for each nonpoint source category to be addressed, including the participation of local governments and their legislative representatives, special purpose districts, tribes, watershed residents, affected parties, and appropriate state and federal agencies, if the watershed includes significant state or federal lands. Representatives of the general public and affected parties shall be included on the watershed management committee, on a separate advisory committee, or both. Membership on watershed management committees in multicounty watersheds shall include the same interests as those in single-county watersheds, and there shall be a single public involvement process which ensures that interested and affected parties throughout the watershed are involved.

(4) Formation. The lead agency shall notify by letter all local government legislative authorities, conservation districts, and Indian tribes with jurisdiction in the watershed, inviting them to participate on the watershed management committee. These entities, including the lead agency, shall, in consultation with affected parties, jointly select a committee size and structure that provides for balanced representation based on the nonpoint sources in the watershed. The lead agency shall publicize the formation of the watershed management committee and may select a deadline for recruiting members. At any time during the planning process, when determined appropriate by the committee, the lead agency may seek additional members to represent affected parties and appropriate local governments and state and federal agencies.

(5) Schedule and work plan. Within ninety days from the effective date of its grant agreement with the department, the lead agency shall convene the watershed management committee and the committee shall determine a schedule and work plan for the action planning process in accordance with WAC 400-12-410 (1)(b) and 400-12-420.

NEW SECTION

WAC 400-12-420 SCHEDULE FOR PREPARATION AND REVIEW OF ACTION PLAN. Action plans shall be prepared and presented to the department within eighteen months after the watershed management committee determines the schedule and work plan in accordance with WAC 400-12-410(5). In large or complex watersheds, the department may allow a planning process of up to twenty-four months at the request of the watershed management committee.

PART FIVE WATERSHED ACTION PLANNING PROCESS

NEW SECTION

WAC 400-12-500 OVERVIEW. The watershed action plan shall describe a coordinated program of effective actions to be implemented to prevent and abate nonpoint source pollution within the watershed. This is to be accomplished through local programs that define nonpoint source problems and identify appropriate means to maintain or improve water quality and protect beneficial uses. Action plans are to be developed in three phases: In Phase 1, problems are defined and goals and objectives are developed; in Phase 2, the source control strategy and implementation plan are prepared; and in Phase 3, the action plan, including materials developed in Phases 1 and 2, is approved and submitted to the department for its approval. Each phase requires public involvement and consultation with implementing entities and agencies. Watershed management committees may obtain technical assistance during all three phases. Action plans may vary in content depending on water quality problems identified in the watershed. Implementing entities are strongly encouraged both to continue and augment their ongoing efforts to prevent and correct

nonpoint source pollution during the action planning process.

NEW SECTION

WAC 400-12-510 PHASE 1—ACTION PLAN PROBLEM DEFINITION, AND GOALS AND OBJECTIVES DEVELOPMENT. (1) Purpose. The purpose of this section is to establish requirements for gathering and evaluating water quality information to define nonpoint source problems and develop goals and objectives for the action plan.

(2) Water quality assessment.

(a) Intent. The intent of the water quality assessment is to provide the watershed management committee, other decision-making bodies, and the public with the most accurate current information on the types of nonpoint sources in priority watersheds and their relative impacts on water quality and beneficial uses of the water resource. This information is to be used as an integral part of the development and implementation of source control programs in action plans and the evaluation of the effectiveness of these programs according to criteria and procedures described in the action plan.

(b) Preparation. Preparation of the water quality assessment shall be at the direction of the watershed management committee and developed through cooperative efforts among the planning and implementing entities involved.

(c) Content of water quality assessment. The water quality assessment shall include two parts: Initial and long-term. The initial assessment will be used in developing the source control programs in the action plan. The long-term assessment will be used to evaluate the effectiveness of these programs during implementation of the action plan.

(i) Initial assessment. The watershed management committee shall request planning and implementing entities to develop the initial assessment information. The lead agency shall coordinate compilation and reporting of the information to the committee. The initial assessment shall provide information on existing water quality, habitat, biological conditions, and land use, within the resources available. The watershed management committee shall use this information to prepare the watershed problem definition in accordance with subsection (4) of this section and the source control strategies in accordance with Part Six of this chapter. The initial assessment shall use available information from local, state, and federal sources and any necessary special surveys that can be provided in a timely manner in accordance with (iii)(C) of this subsection. To the extent possible, existing data shall be evaluated to ensure that only reasonably reliable data are utilized.

(ii) Long-term assessment. The long-term assessment shall provide information on trends related to water quality, habitat, biological conditions, and land use to determine whether the source control programs in the approved action plan are effective, using the criteria and procedures described in the action plan evaluation developed pursuant to WAC 400-12-520 (3)(i)(i). The long-term assessment shall proceed in accordance with the schedule developed pursuant to WAC 400-12-520

(3)(i)(ii). Information collected from the long-term assessment shall be coordinated by the lead agency responsible for implementation of the action plan, in order to ensure that this information is incorporated in the action plan evaluation process as developed in accordance with WAC 400-12-520 (3)(i). The long-term assessment and any special studies shall use procedures and methodologies for sampling and analytical protocols, quality assurance and quality control, and data management that are consistent with the provisions developed from the monitoring program element M-2 of the plan and approved by the department prior to implementation.

(iii) Requirements for initial and long-term assessment. The initial and long-term assessment for action plans shall:

(A) Be tailored to the specific land use activities in the watershed including, but not limited to: Residential, commercial, and industrial activity; forest practices; agricultural practices; and other uses that may produce nonpoint pollution. Predictable land use changes should also be considered;

(B) Utilize field data collection techniques that emphasize visual evaluations of land use activities, physical conditions of the water, stream banks, riparian zone, and habitat in addition to conventional water quality sampling and analysis;

(C) Include special studies where the existing information needs to be verified or expanded;

(D) Utilize citizens in collecting data, where practical;

(E) Be coordinated with the sampling programs established for:

(I) "208" Water Quality Management Plans;

(II) State-wide forest practices program in forested areas;

(III) State department of agriculture and the department when sampling for pesticides; and

(IV) State parks and recreation commission in the vicinity of state parks; and

(F) Be reported in a summarized and consolidated manner so that problems and trends can be easily understood. Information which is desirable but cannot be provided shall be so noted.

(3) Watershed characterization. Using available information and information from the initial water quality assessment prepared in accordance with subsection (2) of this section, the watershed management committee shall prepare a characterization of the watershed which includes, but is not limited to:

(a) A general biophysical description of the study area including a discussion of the (i) topography; (ii) geology; (iii) climate; (iv) existing population; (v) beneficial uses of water; (vi) water quality trends; (vii) existing land use patterns (including a generalized land use map) and anticipated population and land use trends; and (viii) applicable existing federal, state, and local water quality plans;

(b) A map delineating the action plan area boundaries and the justification for any changes in boundaries from those submitted in the watershed ranking process. Where a joint plan with a groundwater management program is being prepared, the boundaries of the

groundwater management planning area shall be included;

(c) A map showing the jurisdictional boundaries of the local, state, federal, and tribal governments and entities in the watershed;

(d) A base map of natural and constructed freshwater bodies in the action plan area including rivers, streams, creeks, lakes, other drainages, and wetlands, showing their relationship to Puget Sound and its associated saltwater wetlands;

(e) References including sources of data, methods, and accuracy of measurements, including documentation for any computer models; and

(f) A description of information that is desirable but unavailable.

(4) Problem definition. Using available information and information from the initial water quality assessment and watershed characterization prepared in accordance with subsections (2) and (3) of this section, respectively, the committee shall prepare a description of the extent of the nonpoint source water quality problems in the planning area including, but not limited to:

(a) The beneficial uses for the water bodies and/or stream segments impaired or threatened by nonpoint pollution and the extent of the impairment or threat;

(b) The extent that water quality standards in the various water bodies, as specified in chapter 173-201 WAC, are not being met;

(c) Impacts or potential impacts of nonpoint sources on groundwater;

(d) Categories and subcategories of sources or potential sources of nonpoint pollution that threaten or impair beneficial uses or contribute to water quality degradation in each water resource identified in (a), (b), and (c) of this subsection. All potential sources must be evaluated including, but not limited to, agriculture, forestry, mining, construction and other land clearing, boats and marinas, landfills, and any other source or potential source in the watershed. The general location of significant point and nonpoint sources and a brief description of their effects on water quality shall also be included;

(e) Wetlands affected or threatened by nonpoint sources; and

(f) A description of information that is desirable but unavailable.

(5) Goals and objectives. The committee shall prepare a statement of water quality goals and objectives. At a minimum, the goals and objectives statement shall provide for:

(a) Identifying the desired results for correcting and/or preventing the nonpoint pollution sources addressed in subsection (4) of this section;

(b) Achieving and enhancing water quality pursuant to chapter 173-201 WAC and chapter 90.48 RCW;

(c) Restoring and maintaining beneficial uses; and

(d) Achieving consistency with the intent of this chapter and the programs resulting from Section 319 of the Federal Clean Water Act.

NEW SECTION

WAC 400-12-520 PHASE 2—ACTION PLAN SOURCE CONTROL AND IMPLEMENTATION

STRATEGY. The watershed management committee shall, at a minimum, prepare the following to develop the source control strategies of the action plan:

(1) Description of source control strategies. Control programs for specific sources and other measures proposed for each significant or potentially significant non-point source category and subcategory in the watershed shall be developed in accordance with the provisions of the source control program requirements in Part Six of this chapter. In addition, the committee shall describe the ways in which the control programs will achieve water quality and protect beneficial uses in the watershed.

(2) Plan rationale. The rationale for choosing the approaches proposed for each source control strategy shall be discussed, as well as the reasons for not addressing any source identified in Part Six of this chapter.

(3) Implementation strategy. A strategy for implementing the action plan shall be developed, including:

(a) A description of the specific actions required by each implementing agency and local government, including federal compliance requirements pursuant to Section 313 of the Federal Clean Water Act, and a means of coordinating these actions within and among source control strategies;

(b) Identification of a lead agency to coordinate implementation of the action plan;

(c) A dispute resolution process;

(d) Provisions for the lead implementing agency to annually report the result of action plan evaluations to the department. These provisions are to be coordinated with the evaluation process developed according to (i) of this subsection;

(e) A schedule that includes annual milestones for implementing source control programs and a specified time frame for achieving action plan objectives;

(f) Provisions for public involvement in preparation and adoption of implementation plans, policies, and/or ordinances;

(g) Estimated implementation costs and budget;

(h) An analysis of existing and potential local, state, and federal funding sources, including long-term funding sources, such as utility districts, that are capable of generating revenues needed to sustain source control programs; and

(i) A method of evaluating the overall effectiveness of the action plan in preventing and correcting ground- and surface water quality impacts and protecting beneficial uses, including:

(i) Criteria and procedures for each source control program to evaluate the success of the source control strategies;

(ii) The role of the long-term water quality assessment developed pursuant to WAC 400-12-510(2) in the action plan evaluation, including a schedule that coordinates the reporting of assessment information with the procedures identified in (i) of this subsection;

(iii) Procedures to be followed if the evaluation shows action plan goals and objectives are not being met within the timetables pursuant to (d) of this subsection, including consideration of whether it is necessary to develop regulatory components where voluntary elements were ineffective; and

(iv) A process for making revisions in accordance with WAC 400-12-530.

NEW SECTION

WAC 400-12-530 REVISIONS. All revisions to action plans approved by the department shall be processed in accordance with the requirements of WAC 400-12-520 (3)(i), (iii) and (iv), 400-12-560, and 400-12-220.

The department may require revisions of the action plan if through biennial audits, as required by the plan, monitoring, or periodic reviews, it determines that the implementation provisions of the action plan prepared in accordance with WAC 400-12-520(3) are not effective. Upon determining that an action plan needs revision, the department shall provide written notice to the lead implementing agency identifying the provisions of the action plan to be modified, the reason for the revision, and a reasonable time frame in which the revision is to be made.

NEW SECTION

WAC 400-12-540 SEPA REVIEW. The draft action plan, subsequent amendments, and implementation actions of the action plan shall be subject to review pursuant to the State Environmental Policy Act, chapter 43.21C RCW, as required under the applicable state and local implementing regulations.

NEW SECTION

WAC 400-12-550 ACTION PLAN CONTENTS. Each action plan submittal to the department for approval shall at a minimum include:

(1) Title sheet including (a) the name and address of the lead agency for developing the action plan and the responsible person to contact; and (b) the name and address of the lead agency for implementing the action plan and the responsible person to contact;

(2) Executive summary of the action plan contents, including (a) a brief discussion of the general character of the watershed, (b) a summary of significant nonpoint source problems identified, (c) a summary of the source control programs proposed pursuant to WAC 400-12-600, (d) a list of planning and implementing entities, and (e) a description of actions to be taken by implementing entities during key stages of implementation.

(3) Phase 1 documents, prepared in accordance with WAC 400-12-510 including (a) report from the initial water quality assessment, (b) watershed characterization, (c) problem definition, and (d) goals and objectives statement;

(4) Phase 2 documents, prepared according to WAC 400-12-520, including (a) description of source control strategies, (b) plan rationale, and (c) implementation strategy;

(5) Statements of concurrence and any unresolved statements of nonconcurrence from implementing entities gathered pursuant to WAC 400-12-560;

(6) Statements from nongovernmental entities identified in the action plan to carry out activities indicating their commitment to implement those activities;

(7) Solutions proposed by the lead agency to resolve issues related to the statements of nonconcurrence, with any comments on the proposed solutions from the entities which submitted the statements of nonconcurrence;

(8) Description of the public involvement procedures used to develop and approve the action plan; and

(9) SEPA documents prepared pursuant to chapter 43.21C RCW.

NEW SECTION

WAC 400-12-560 PHASE 3—ACTION PLAN REVIEW AND APPROVAL. (1) Preliminary review. The watershed management committee shall forward the draft action plan, containing the information developed in WAC 400-12-510 and 400-12-520, to the lead agency. The lead agency shall promptly submit the draft action plan and SEPA documents to the department and to planning and implementing entities for preliminary review. Within sixty days from receipt of the draft action plan, the department shall review the draft action plan for consistency with this chapter and other applicable state and federal rules. The planning and implementing entities shall provide their comments on the draft action plan to the lead agency concerning, at a minimum, the action plan's technical and financial feasibility. The lead agency shall consolidate the results of the reviews and present them to the watershed management committee. The department shall meet with the watershed management committee at the earliest possible date to discuss comments from the department's preliminary review. The watershed management committee shall consider recommended revisions and make changes to the draft action plan as necessary.

(2) Action plan approval.

(a) As soon as the watershed management committee completes revision of the draft action plan, the lead agency shall forward this revised action plan to planning and implementing entities identified in the action plan.

(b) The watershed management committee and implementing entities shall conduct a joint public hearing to take public testimony on the revised action plan.

(c) Each planning and implementing entity shall evaluate those provisions of the revised action plan which require the entity's involvement. Each entity shall submit a statement of its concurrence to the watershed management committee, indicating its intent to adopt implementing policies, ordinances, and programs as required, or a statement of nonconcurrence with the action plan which proposes specific revisions to sections requiring its involvement. The lead agency shall collect the statements from each planning and implementing entity and present them to the watershed management committee. Within sixty days of receipt of the statements, the committee shall attempt to resolve statements of nonconcurrence utilizing their dispute resolution process, prepare final revisions to the action plan, and approve it.

(3) Action plan submittal. The final revised action plan, as described in WAC 400-12-550, shall be forwarded to the lead agency for review and submittal to the department. If there are unresolved issues or if there are statements of nonconcurrence which could not be resolved by the watershed management committee, these

shall be described and included with the final revised action plan for submittal to the department. The lead agency shall propose solutions to remaining statements of nonconcurrence and submit them to the department as part of the final action plan. If the final action plan identifies activities to be carried out by nongovernmental entities, it shall include statements from those organizations indicating their commitment to implement those activities. The department may resolve any remaining unresolved statements of nonconcurrence.

(4) Ecology approval process. Not more than sixty days from receipt of the final action plan, the department shall notify the lead agency, in writing, of its decision to approve or reject all or any portion of the final action plan. The lead agency shall promptly notify the watershed management committee of the decision of the department. Implementation of approved portions may proceed while approval of other portions is pending. To approve all or part of an action plan, the department must conclude that:

(a) The action plan is consistent with these rules;

(b) The action plan is consistent with the goals and requirements of the plan;

(c) The implementation strategy is feasible and adequate to effectively protect beneficial uses and control nonpoint sources of pollution;

(d) Implementing entities have the authority and sufficient commitment to carry out implementation of the action plan. In making a determination, the department shall consider the impact of any statements of nonconcurrence submitted with action plans;

(e) Adequate public involvement and participation has occurred in development of the action plan and adequate public involvement in implementation is provided for in the action plan; and

(f) The plan complies with applicable state and federal laws.

NEW SECTION

WAC 400-12-570 ACTION PLAN IMPLEMENTATION. (1) Within thirty days of approval or disapproval of all or part of the action plan by the department, the lead agency shall notify all appropriate federal and state agencies, local planning and implementing entities, and affected parties of the department's decision.

(2) Each local and state implementing entity identified in the action plan approved by the department shall be responsible for carrying out its portion of the action plan within the prescribed schedule, using the approaches described in the action plan, pursuant to RCW 90.70.070. In addition, affected local governments and state agencies with jurisdiction in the watershed shall be guided by the action plan in developing and approving all studies, plans, permits, and facilities in the watershed. The lead implementing agency shall seek to ensure consistency of federal agency actions pursuant to 33 U.S.C. Section 1323 and Section 319 of the Clean Water Act, 33 U.S.C. 1251 et seq., as amended, if applicable.

(3) The lead implementing agency, identified in the implementation strategy developed in accordance with

WAC 400-12-520 (3)(b), shall be responsible for coordinating among implementing entities and for providing regular progress reports on implementation to the department. Pursuant to chapter 39.34 RCW, cooperative agreements may be used to facilitate coordination among implementing entities and between the lead agency and implementing entities.

(4) The department shall provide ongoing oversight of watershed action plans. In addition, the department shall audit each watershed action plan every two years to ensure consistent and adequate implementation.

PART SIX SOURCE CONTROLS

NEW SECTION

WAC 400-12-600 GENERAL PROVISIONS. (1) Overview. This part identifies the major sources of non-point pollution which the watershed management committee shall address with a source control program in the action plan when an existing or potential nonpoint source of pollution is identified as significant or potentially significant. When a source is not identified as significant or potentially significant in a watershed, a control program for that source need not be included in the action plan.

(2) General requirements. In developing source control programs, the watershed management committee recommendations and decisions shall:

(a) Integrate and coordinate nonpoint source strategies and the action plan with current water quality management plans and programs including local, state, federal, and tribal plans and programs. Such plans and programs include, but are not limited to, those involving groundwater; wetlands and wetlands management, developed under element W-5 of the plan; stormwater, and results of the Puget Sound Wetlands and Stormwater Management Study prepared under SW-7 of the plan; shellfish; fisheries; household hazardous wastes; flood control; and others as appropriate.

(b) Be evaluated for their technical feasibility; legality; capability of affected entities to implement; ability to achieve and maintain or improve water quality; ability to restore and maintain beneficial uses; effects or potential effects on groundwater quality; ability to control sources; and consistency with local comprehensive plans and other state, federal, or tribal water quality management plans, programs, or rules.

NEW SECTION

WAC 400-12-610 AGRICULTURAL PRACTICES. (1) Intent. The intent of this section is to minimize sources of pollution, protect beneficial uses, and achieve or enhance water quality through emphasizing use of best management practices in those individual farm plans developed under "208" water quality management plans or under other types of farm plans; inventories of individual farm plans; voluntary action for prevention and correction; special considerations for noncommercial farms; education; incentives; compliance; and other appropriate measures.

(2) Program content. In addition to the provisions identified in WAC 400-12-600, the agricultural management strategy shall include, but is not limited to:

(a) A farm plan inventory element with provisions for the local conservation district to identify farms with implemented farm plans and all other farms;

(b) A prevention and corrective action element that includes:

(i) Provisions for farm operators without farm plans to voluntarily participate in a program to improve agricultural practices that may contribute to water quality degradation. Implementation of farm plans with best management practices that meet United States Department of Agriculture Soil Conservation Service technical standards is the recommended management tool for action plans;

(ii) Provisions for the local conservation district to evaluate on an ongoing basis the effectiveness of implementation of new, old, and updated farm plans;

(iii) Additional voluntary measures necessary to increase the effectiveness of the "208" water quality management plans, including the updating of existing farm plans developed under the "208" program to include best management practices, the use of farm plans with best management practices by all types of farms, or other applicable state or local water quality management plans; and

(iv) Special provisions to address nonpoint pollution from noncommercial farms.

(c) An education program, coordinated with the conservation district and/or cooperative extension service, informing the agricultural community about:

(i) Nonpoint pollution associated with agricultural activities;

(ii) Local, state, and federal water quality management programs, including the "208" water quality management plans, and the availability and applicability of farm water quality planning assistance for all types of farms; and

(iii) Technical assistance, financial assistance, and other incentives available.

(d) An element to identify financial or resource incentives that can be made available to encourage agricultural operators to participate in water quality protection programs;

(e) A compliance and enforcement element that includes, but is not limited to:

(i) The enforcement provisions of the "208" water quality management plans;

(ii) A process for the local conservation district and the department to coordinate their efforts to expeditiously protect and improve water quality;

(iii) Compliance with the Federal Clean Water Act as amended; the "208" water quality management plans; and other applicable state and local water quality laws, regulations, and plans.

(f) A program evaluation in accordance with WAC 400-12-520 (3)(i).

(3) Exceptions. Any farm implementing best management practices on schedule under an approved farm plan, as agreed upon by the operator and the conservation district board of supervisors, shall be exempt from

further water quality regulation under this chapter unless there is a water quality violation pursuant to chapter 90.48, 90.52, or 90.54 RCW and/or degradation of water quality. In cases where the violation cannot be attributed to a specific farm or farms, all pollution sources potentially contributing to the violation shall be surveyed and evaluated. Any subsequent compliance action relating to agricultural practices shall be pursuant to subsection (2)(e) of this section.

(4) The agricultural practices management strategy may include regulatory measures, subject to the exemption in subsection (3) of this section.

NEW SECTION

WAC 400-12-620 ON-SITE SEWAGE DISPOSAL. (1) Intent. The intent of the on-site sewage disposal management strategy is to minimize sources of pollution, protect beneficial uses, achieve and maintain water quality, and comply with existing laws and regulations. This is to be achieved through preventive and remedial measures consisting of regulation, education, system maintenance, and correction of failing systems.

(2) Program content. In addition to the provisions identified in WAC 400-12-600, the watershed management committee shall, at a minimum, ensure that the following elements are integral parts of the on-site sewage disposal system management strategy:

(a) A problem definition identifying the geographic areas within the watershed with existing and potential low, moderate, and high risk of on-site sewage disposal system failure. Areas where on-site sewage disposal systems are failing, or where soil and site conditions create a potential for surface or groundwater contamination where on-site systems are used, are considered high-risk areas. An explanation of the criteria used to establish these categories of risk shall be included;

(b) A prevention and corrective action element that includes:

(i) Provisions requiring adherence to chapter 248-96 WAC;

(ii) In high-risk areas, where conventional on-site sewage disposal systems are failing and where site conditions permit the use of on-site sewage disposal, required use of alternative systems designed in a manner consistent with the site conditions and department of social and health services guidelines, and which provide greater removal of microorganisms and nutrients than do conventional systems;

(iii) Provisions for ongoing operation and regular maintenance of new and existing systems in high-risk areas through on-site sewage disposal system maintenance districts or other means that ensure continued proper functioning of systems in the area;

(iv) Provisions for periodically informing users of on-site sewage disposal systems in low-risk to moderate-risk areas of the need for regular system maintenance;

(v) Remedial programs requiring that failing systems shall be repaired or replaced with systems that meet the intent of chapter 248-96 WAC. If located in a high-risk area, systems required in the prevention program shall be used; and

(vi) An education program for those who use or service on-site sewage disposal systems informing them about: The basic principle of operating an on-site sewage disposal system; the importance of siting, designing, installing, operating, and maintaining the system to reduce the potential for ground- and surface water contamination; local and state public health requirements; available alternative systems; and available financial assistance for remedial actions; and

(c) Program evaluation in accordance with WAC 400-12-520 (3)(i).

NEW SECTION

WAC 400-12-630 STORMWATER AND EROSION. (1) Intent. The intent of this section is to prevent and minimize sources of pollution, protect beneficial uses, and achieve and enhance water quality through stormwater management and erosion control. The stormwater and erosion program is to focus on evaluating existing problems, educating the public, and using best management practices to control pollutants and erosion and to manage the quality and quantity of stormwater runoff. This section does not apply to drainage and erosion control activities of agricultural operations addressed pursuant to WAC 400-12-610.

(2) Program content. In addition to the provisions identified in WAC 400-12-600, the watershed management committee shall develop a stormwater and erosion strategy which is consistent with program elements SW-1, SW-2, SW-3, and SW-4 as described in the plan, and at a minimum, includes:

(a) An evaluation of existing drainage and erosion control ordinances, policies, and programs to determine their effectiveness in:

(i) Controlling erosion and managing the quality and quantity of stormwater runoff from public and private uses and activities;

(ii) Achieving and enhancing water quality;

(iii) Minimizing sources of pollution; and

(iv) Protecting beneficial uses;

(b) A ranked list of the most significant types of stormwater and erosion problems in the urban, suburban, and urbanizing areas as determined by the severity of their threat to public health and beneficial uses and an explanation of the criteria used to complete the ranking;

(c) A ranked list of the stormwater and erosion problems for which monitoring information is needed;

(d) A prevention and corrective action element that includes:

(i) Public education to inform groups or individuals whose activities can result in sources of stormwater contamination and erosion. The information is to describe the pollution causes and problems that are associated with stormwater and erosion, such as increased impermeable surfaces, household hazardous wastes and pet wastes, automobile maintenance and repair wastes, construction activities, commercial operations that may result in substantial impermeable surfaces or generate large quantities of animal feces or hazardous wastes; applicable local and state requirements and programs; and

effective methods that can be used to manage the problems above the ground, including use of available best management practices;

(ii) A training program for field staff of public entities whose activities may affect water quality or who are responsible for inspecting private actions, including road construction and maintenance crews, zoning and drainage inspectors, and others as appropriate, informing them of the adverse effects of pollutants and sediment in stormwater on water quality, habitat, and plants and animals; applicable local and state laws and requirements; and the individuals or agencies to contact for compliance, enforcement, and spill response;

(iii) Measures for maintenance of existing and new public and private storm drainage, conveyance, and detention systems to ensure they function as designed, and to remove accumulated sediments and contaminants;

(iv) Procedures to manage the storm drainage system maintenance activities, identified in (d)(iii) of this subsection, in relation to cleanup, transport, and disposal of waste materials;

(v) A local spill response program for small quantities of petroleum products, pesticides, and other pollutants;

(vi) Provisions for managing stormwater quantity and quality when developing regional stormwater facilities; and

(vii) Measures which require the use of: (A) Above-ground storage treatment, and conveyance systems that involve primarily nonstructural methods, such as grassy swales or detention ponds, to manage stormwater on the site, when it is practical to do so; (B) best management practices for stormwater and erosion control; and (C) structural treatment facilities, only as necessary;

(e) Coordination with the local hazardous waste plans, pursuant to chapter 70.105 RCW;

(f) Compliance with the provisions of the National Flood Insurance Program, 44 CFR Parts 59 and 60 and chapter 86.16 RCW;

(g) A program evaluation in accordance with WAC 400-12-520 (3)(i).

(3) Additional regulatory provisions for managing stormwater and erosion may be developed, provided that such regulations are consistent with the intent of federal and state statutes and the plan.

NEW SECTION

WAC 400-12-640 FOREST PRACTICES. (1) Intent. The intent of this section is to minimize pollution sources, achieve and enhance water quality, and protect beneficial uses by assuring that local actions to prevent and correct nonpoint source pollution are coordinated with the state-wide forest practices program.

(2) Program content. The watershed management committee shall incorporate provisions in the forest practices management strategy from the state-wide forest practices program which are intended to prevent and correct nonpoint source pollution from private, state, or federally owned lands in the watershed in relation to: Preharvest planning, road construction and maintenance, orphaned roads, stream degradation, steep and unstable slopes, other situations where corrective actions are needed, application of pesticides, and other problems as

identified. At a minimum, the strategy, consistent with the state-wide program, shall provide:

(a) A ranked list of impacts resulting from forest practices rated according to the severity of their threat to beneficial uses and public resources and an explanation of the criteria used in the ranking;

(b) Coordination with the U.S. Forest Service, and other federal entities when federal lands are involved, and with the state-wide forest practices program in all other cases;

(c) A public education program, coordinated with the department of natural resources, to inform those involved in and those affected by forest practices activities about the availability of technical assistance from the state-wide forest practices program and its management requirements;

(d) Procedures to assure that the requirements of the Forest Practices Act for land use conversions are implemented consistently by all jurisdictions in the watershed, in order to assure that forest landowners in the process of converting land, and future owners of these lands, comply with local land use ordinances and/or water quality plans, erosion control provisions, and other ordinances and procedures pursuant to WAC 222-20-020 and RCW 76.09.060;

(e) Procedures for notifying the department when enforcement is required under WAC 222-12-070;

(f) Procedures for assuring consistency among local jurisdictions in the watershed in:

(i) Carrying out the forest practices provisions in WAC 222-50-020(3) relating to the Shoreline Management Act; and

(ii) Review of forest practices pursuant to RCW 76-09.040 and 76.09.050;

(g) Procedures for coordinating the long-term water quality assessment program with the state-wide forest practices monitoring program; and

(h) A program evaluation in accordance with WAC 400-12-520 (3)(i).

(3) Where a forest practices management strategy is proposed, the department of natural resources shall be notified by the department. The department of natural resources shall coordinate with the state-wide forest practices program and submit comments to the watershed management committee, through the department, concerning the action plan forest practices management strategy related to the:

(a) Consistency with the state-wide forest practices program;

(b) Effectiveness of the proposed strategy; and

(c) Ability of the state-wide forest practices program to provide resources or address needed actions.

NEW SECTION

WAC 400-12-650 MARINAS AND BOATS. (1) Intent. The intent of this section is to prevent and minimize pollution sources, protect beneficial uses, and achieve and enhance water quality primarily through coordinated public education efforts, for marina operators and the boating public, and needed shoreside regulation.

(2) Program content. The strategy to address marinas and boats shall include:

(a) Provisions for coordinating with the programs of the state boaters task force, state parks and recreation commission, and the department of social and health services;

(b) In coordination with element MB-3 of the plan, an education program to inform marina operators and the boating public about:

(i) Nonpoint source pollution from boating activities including on-board sanitation; on-shore sewage disposal facilities; liveabards; use of paints and solvents; solid waste disposal; and other practices related to the use, repair, or maintenance of boats that may contribute to water quality degradation;

(ii) The methods available to correct and prevent pollution from the facilities and practices identified in (b)(i) of this subsection; and

(iii) Applicable federal, state, and local programs;

(c) A program evaluation in accordance with WAC 400-12-520 (3)(i).

(3) Measures may be developed to require shoreside sewage disposal facilities at marinas; regulation of waste discharges from liveabards, including mandatory sewer hook-ups; and requirements for storage, use, and disposal of hazardous materials such as fuels, paints, and solvents.

NEW SECTION

WAC 400-12-660 OTHER NONPOINT SOURCES. (1) Intent. The intent of this section is to minimize nonpoint pollution sources, protect beneficial uses, and achieve and enhance water quality through corrective and preventive measures for nonpoint sources or pollutants not included in WAC 400-12-610, 400-12-620, 400-12-630, 400-12-640, or 400-12-650 when such sources are significant or potentially significant in the watershed.

(2) Program content. The watershed management committee shall develop a management strategy which incorporates the provisions identified in WAC 400-12-600 for the nonpoint sources or pollutants in (a) through (e) of this subsection when they have been identified as significant in the watershed. A program evaluation, in accordance with WAC 400-12-520 (3)(i), shall be prepared for each source or pollutant addressed.

(a) Pesticides. The management strategy shall, at a minimum, contain:

(i) Provisions which recognize the state preemption to regulate pesticides pursuant to chapter 16-228 WAC and chapters 17.21 and 15.58 RCW;

(ii) An education program coordinated with the cooperative extension service, conservation district, agricultural practices program pursuant to WAC 400-12-610, and the state department of agriculture to inform the general public, especially regular users of pesticides, about the potential water quality problems associated with the improper use, storage, and disposal of pesticides and pesticide containers; the applicable regulations; and less-toxic alternatives, including integrated pest management practices and nonpesticide substances and techniques that do not degrade water quality; and

(iii) Other appropriate actions;

(b) Landfills, mines, sand and gravel pits. The management strategy shall, at a minimum, contain:

(i) Measures that local governments can incorporate into their permitting processes to minimize sedimentation, turbidity, particulates, and leachates from past and proposed landfills, mining, and excavation activities;

(ii) An education program to inform those engaged in landfill and resource excavation activities about the potential water quality problems associated with these operations, existing applicable regulations, and effective methods to reduce erosion and leachates from these activities; and

(iii) Other appropriate actions;

(c) Septage. All aspects of the septage management strategy shall be coordinated with the local agency administering the regulations pursuant to chapter 173-304 WAC, Minimal functional standards for solid waste handling. The management strategy shall include an education program to inform those involved in the storage, transport, or processing of septage about the potential water quality problems associated with these operations, existing applicable regulations, and effective methods for minimizing nonpoint pollution from these activities. Information which is gathered concerning activities associated with the storage, transport, or processing of septage shall be reported to the local agency administering chapter 173-304 WAC;

(d) Contaminated sites. Sites which may be contaminated from disposal practices shall be reported to the department when they are identified. Source control programs shall be coordinated with the plan and with related federal superfund plans and state agency cleanup plans for sites in the watershed where appropriate;

(e) Other nonpoint sources. Strategies for other nonpoint sources identified shall be developed by the watershed management committee.

PART SEVEN PLAN COMPLIANCE

NEW SECTION

WAC 400-12-700 DEFAULT PROCEDURE. If a planning or implementing entity does not carry out its responsibilities pursuant to this chapter, such as rank its watersheds, and/or develop action plans, and/or carry out its responsibilities under the approved action plan, and has not been granted an exception under WAC 400-12-710, the department shall either rank the county watersheds, and/or prepare, and/or implement an action plan, or portion(s) thereof, or use its regulatory authority under chapter 90.48 RCW, the plan, or other authority to direct the entity to rank watersheds, and/or prepare action plans, and/or implement portions thereof.

NEW SECTION

WAC 400-12-710 EXCEPTIONS. The lead agency may request approval of an alternative to the procedures or action plan content provisions of this chapter when there are special circumstances unique to that lead agency or watershed. Such requests shall be made in

writing to the department and describe how the alternative is consistent with the intent of this chapter and the plan. If the department approves such an alternative, it shall specify in writing agreed-upon schedules and milestones for achieving objectives with adequate opportunities for public involvement, and shall clearly state that the exception may be revoked if the schedules and milestones are not achieved.

NEW SECTION

WAC 400-12-720 SEVERABILITY. If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

**WSR 88-06-054
PROPOSED RULES
LIQUOR CONTROL BOARD**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Furnishing of information and/or documentation to the board concerning compliance with RCW 66.28.010—Oath required—Form for affidavit for retailer, WAC 314-12-038;

that the agency will at 9:30 a.m., Tuesday, April 5, 1988, in the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.28.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988
By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-12-038 Furnishing of information and/or documentation to the board concerning compliance with RCW 66.28.010—Oath required—Form for affidavit for retailer.

Description of Purpose: The affidavit requirement established by this rule will facilitate enforcement, in accord with recently expressed legislative intent, of the prohibition in RCW 66.28.010 on the gift of "money or moneys' worth" to a licensed retailer by a liquor manufacturer, importer or wholesaler.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.28.010.

Summary of Rule: Establishes the requirement for a periodic certification to the board concerning acceptance of prohibited gifts of "moneys' worth." Specifically dealt with are those items which would have been exempted from the "money or moneys' worth" prohibition of RCW 66.28.010 by legislation in the 1988 session of the Washington state legislature. Because the legislature failed to exempt these items, with knowledge that existing law had been construed by AGLO 1973, No. 28, this rule will implement legislative intent that receipt of these "money or moneys' worth" items by a licensed retailer should remain prohibited. Failure or refusal to submit the required certification will be good and sufficient cause for revocation of the license of the business which fails or refuses to furnish the requested certification.

Reasons Supporting Proposed Action: In AGLO 1973, No. 28, the attorney general ruled that RCW 66.28.010 was an unqualified prohibition on "money or moneys' worth" being provided to a licensed retailer by a liquor manufacturer, importer or wholesaler. The activities and/or items listed in the rule can be considered commonly accepted business practices in most industries, and are legal in the alcoholic beverage industry under federal law. The board had considered them relatively harmless in the past in relation to other types of "money or moneys' worth" which clearly contravened the intention of RCW 66.28.010 in that they could lead to exclusion of one product in favor of another. However, when a bill which would specifically have exempted the commonly accepted business entertainment items from the "money or moneys' worth" prohibition of RCW 66.28.010 was considered by the 1988 session of the legislature, it failed to pass out of committee and has not, to this date, become law. The board has received legal advice to the effect that the above described legislative action constitutes a confirmation of the 1973 Attorney General's Opinion holding that the prohibition on "money or moneys' worth" in RCW 66.28.010 is unqualified and that types of activities referenced in the proposed rule are violations of that statute. The legislature was made aware of the board's position that these activities were relatively harmless and should be exempted from the "tied-house" prohibition. Attached, and incorporated herein by this reference, is a memo dated February 1, 1987, to Eleanor Lee, Chairman of the Senate Economic Development and Labor Committee, setting forth the board's position. This memo was submitted in conjunction with testimony before that committee by the board's legislative liaison. The legislature, after considering the board's position, nevertheless determined that these practices should remain prohibited. The board believes that in view of this legislative action and of the heavy opposition to exempting these activities from RCW 66.28.010 by the beer and wine wholesale industry, an appropriate redirection of resources into enforcement of this prohibition is necessary.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Lester C. Dalrymple, Supervisor, License Division, phone (206) 753-6259 and Carter Mitchell, Information Officer,

phone (206) 753-6276, both located at Capital Plaza Building, Olympia, Washington 98504.

Person or Organization Proposing Rule: The Washington State Liquor Control Board.

Agency Comments: This notice of proposed rulemaking is being filed in sufficient time to give the 1988 legislature an opportunity to further express legislative intent in the area of the proposed rule, should it desire to do so. The board has previously filed a notice of rulemaking (WSR 88-05-012) to establish a similar reporting requirement for manufacturers, importers and wholesalers. After doing so, the board was advised by a number of wholesalers that there exists a substantial amount of coercion by some retailers in demanding the sorts of "moneys' worth" which is prohibited by RCW 66.28.010. Those wholesalers felt the retailers should have to make similar reports to those required of wholesalers (i.e., certifying their compliance with "tied-house" requirements). As a result of this information, the board decided that fairness required that retailers also certify that they have not solicited or accepted items which manufacturers, importers and wholesalers are prohibited from furnishing. This will also make more efficient the board's enforcement activities against "tied-house" violators.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Will require filing of one additional document in connection with the annual renewal of a liquor retailer's license. It will further require filing of a certification at such times as complaints may be received and investigations commenced by the board into violations of RCW 66.28.010. The overall cost impact on industry members will be minimal.

NEW SECTION

WAC 314-12-038 FURNISHING OF INFORMATION AND/OR DOCUMENTATION TO THE BOARD CONCERNING COMPLIANCE WITH RCW 66.28.010—OATH REQUIRED— FORM OF AFFIDAVIT FOR RETAILER. (1) In order to facilitate the enforcement of RCW 66.28.010 and WAC 314-12-140 in the area of prohibited gifts of "moneys' worth," all holders of licenses to sell liquor at retail in the state of Washington shall furnish, along with the documentation required for the annual renewal of their license, a statement, under oath, in the form specified in subsection (3) of this section. Failure or refusal to furnish the required certification will be good and sufficient cause for revocation of any license held by a business which fails or refuses to furnish the requested certification.

(2) The certification required in subsection (1) of this section to be submitted in connection with an application for renewal of license may also be requested by the board in connection with any complaint or investigation concerning the "moneys' worth" prohibitions of RCW 66.28.010. Failure or refusal to submit the appropriate documentation within ten days of receipt of a request from the board, or such further time as the board may allow in a specific case, shall be good and sufficient cause for suspension or revocation of license privileges.

(3) The certification required by this section shall be in the following form:

"Affidavit of retail licensee concerning compliance with RCW 66.28.010.

I, _____, having been duly sworn upon oath depose and say:

That I am aware that RCW 66.28.010 prohibits solicitation or acceptance by a licensed retailer of money or moneys' worth from a licensed manufacturer, importer or wholesaler, or the holder of a certificate of approval. I further understand that as construed in Attorney General's Letter Opinion 1973 No. 28, RCW 66.28.010 is an absolute

and unqualified prohibition on gifts of money or moneys' worth regardless of the value of said gifts.

That I understand that the solicitation or acceptance of food or refreshment, or admissions and other related fees for sporting or other entertainment activities by a licensed retailer from a manufacturer, importer or wholesaler, or the holder of a certificate of approval, constitutes a violation of RCW 66.28.010 regardless of the amount of money expended or the value of the "moneys' worth" furnished.

That I hereby certify on behalf of the retail licensee listed below that (a) I am authorized to execute this certificate on behalf of the retail licensee and that (b) during the reporting period specified below, no person affiliated with the licensed retail business has solicited or accepted food or refreshment or admission to or other related fees in connection with sporting or other entertainment activities from a licensed manufacturer, importer or wholesaler, or the holder of a certificate of approval.

That I am aware that RCW 9A.72.030 provides that it is a crime (Class C felony) for a person, with intent to mislead a public servant in the performance of his duty, to make under an oath required or authorized by law a materially false statement, knowing it to be false.

Name: _____

Licensed Trade Name of Retail Licensee: _____

License No. _____

Reporting Period: _____ to _____

Date: _____

SUBSCRIBED AND SWORN TO Before me this ____ day of ____, 19____.

Notary Public in and for the State of Washington, residing at _____.
My appointment expires _____.

**WSR 88-06-055
PROPOSED RULES
LIQUOR CONTROL BOARD**
[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning designated portion of club used for service and consumption of liquor, WAC 314-40-080;

that the agency will at 9:30 a.m., Tuesday, April 5, 1988, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.24.450.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: February 26, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-40-080 Designated portion of club used for service and consumption of liquor.

Description of Purpose: To amend WAC 314-40-080 to allow bona fide members to possess and consume their own liquor at any time and in any part of the club premises as permitted under the bylaws and/or house rules of the club, provided such bylaws and/or house rules have been filed with the board.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.24.450.

Summary of Rule: Presently the rule allows bona fide members to possess and consume their own liquor at any time and in any part of the club premises as permitted under the bylaws and/or house rules of the club provided such bylaws and/or house rules have been approved by the board.

Reasons Supporting Proposed Action: Will bring the rule into agreement with WAC 314-40-030 which provides that bylaws and/or house rules be submitted to, but not approved by, the board.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing, and enforcing these rules: Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 586-3052.

Person or Organization Proposing Rule: The Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

AMENDATORY SECTION (Amending Rule 110, filed 6/13/63)

WAC 314-40-080 DESIGNATED PORTION OF CLUB USED FOR SERVICE AND CONSUMPTION OF LIQUOR. (1) Each club shall submit a sketch of the entire premises including the portion used for storage, sale and consumption of liquor, for approval. No change in any portion of the club premises so described and approved shall be made without the consent of the board.

(2) Where the physical setup of the club rooms or quarters renders it practical so to do, such portion of the club premises shall be a room or rooms devoted solely to such service and capable of being entirely closed from the remainder of the club rooms or quarters. Bona fide members may possess and consume their own liquor at any time and in any part of the club premises as permitted under the bylaws and/or house rules of the club, provided such bylaws and/or house rules have been ((approved by)) filed with the board.

(3) If the club rents any portion of the club rooms or quarters for any purpose other than a strictly club purpose, or holds any function within the club rooms or quarters to which the public generally is invited or admitted, then such portion devoted to liquor service must be closed to the public generally and no one admitted therein, except bona fide members, bona fide visitors and bona fide guests. If such portion cannot be so closed, then no such liquor service whatever shall be permitted within the club rooms or quarters during the entire time when such nonclub activity is taking place or while the public generally is permitted within the club rooms or quarters.

WSR 88-06-056**PROPOSED RULES****LIQUOR CONTROL BOARD**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning notice and opportunity for hearing in contested cases, WAC 314-08-080;

that the agency will at 9:30 a.m., Tuesday, April 5, 1988, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 34.04.090 and 66.24.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: February 26, 1988

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-08-080 Notice and opportunity for hearing in contested cases.

Description of Purpose: To amend WAC 314-08-080 to provide that in any contested case, all parties shall be served with a notice at least 20 days before the date set for the hearing.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 34.04.090 and 66.24.010.

Summary of Rule: Presently the rule provides that in any contested case all parties shall be served with a notice at least 10 days before the date set for the hearing.

Reasons Supporting Proposed Action: Would provide that in any contested case all parties shall be served with a notice at least 20 days before the date set for the hearing. The rule would then be consistent with RCW 34.04.090 which provides for 20 days notice.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 586-3052.

Person or Organization Proposing Rule: The Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this amendment.

AMENDATORY SECTION (Amending Resolution No. 2, Rule 08.080, filed 6/13/63)

WAC 314-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES. In any contested case, all

parties shall be served with a notice at least ((ten)) twenty days before the date set for the hearing. The notice shall state the time, place, and issues involved, as required by RCW 34.04.090(1) and WAC 314-04-010.

WSR 88-06-057
PROPOSED RULES
MARINE EMPLOYEES' COMMISSION
[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Marine Employees' Commission intends to adopt, amend, or repeal rules concerning labor relations in Washington state ferry system, WAC 316-02-350 Subpoenas—Quashing, 316-02-820, 316-45-110 and 316-45-550 housekeeping;

that the agency will at 11:00 a.m., Friday, April 22, 1988, in the Port Commission Conference Room, Third Floor, Pier 66, Seattle, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 22, 1988.

The authority under which these rules are proposed is RCW 47.64.280.

The specific statute these rules are intended to implement is RCW 47.64.280, 47.64.260 and 47.64.130.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 22, 1988.

Dated: March 2, 1988
By: Anna Peterson
Administrative Assistant

STATEMENT OF PURPOSE

Title: WAC 316-02-350, 316-02-820, 316-45-110 and 316-45-550.

Description of Purpose: To clarify service of notices and general housekeeping.

Statutory Authority: Chapter 47.64 RCW.

Specific Statute Rule is Intended to Implement: Chapter 47.64 RCW.

Summary of Rule: Implementing chapter 47.64 RCW.

Reasons Supporting Proposed Action: To clarify and define service of subpoenas and general housekeeping.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Anna Peterson, Administrative Officer, Marine Employees' Commission, Main Floor, S.W. Quadrant, FJ-11, Evergreen Plaza Building, Olympia, Washington 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Marine Employees' Commission, governmental agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: Better definition.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: No.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-110 INITIAL PROCESSING OF COMPLAINT. The commission or its designee shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of ((section 4, chapter 15, Laws of 1983 (RCW _____))) RCW 47-64.130. If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the commission or designee shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the commission or designee shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices, shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 316-45-350.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-550 COLLECTIVE BARGAINING—POLICY. It is the policy of the commission to promote bilateral collective bargaining negotiations between the department and the exclusive representatives of its employees in accordance with ((sections 1 and 4, chapter 15, Laws of 1983 (RCW _____))) RCW 47.64.006 and 47-64.130. Such parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into the dispute between them. The commission deems the determination as to whether a particular subject is mandatory or nonmandatory to be a question of law and fact to be determined by the commission, and which is not subject to waiver by the parties by their action or inaction. It is the policy of the commission that a party which engages in collective bargaining with respect to any particular issue does not and cannot thereby confer the status of a mandatory subject on a nonmandatory subject.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-350 SUBPOENAS—QUASHING. Any motion to quash a subpoena ((is directed)) shall be filed and served on all parties within five days after the date of service of the subpoena upon him and, in any event, shall be made at or before the time specified in the subpoena for compliance. The person making such motion shall give notice of the motion to the party to whom the subpoena was issued. The commission, hearing officer or examiner may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-820 COMMISSION OFFICES. The commission maintains its ((principal)) office ((in the city of Olympia, Washington)) at ((.....)) Main Floor, S.W. Quadrant, Evergreen Plaza Building, Mailstop FJ-11, Olympia, Washington 98504.

WSR 88-06-058
PROPOSED RULES
BELLEVUE COMMUNITY COLLEGE
[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Bellevue Community College, Community College District VIII, intends to adopt, amend, or repeal rules concerning bylaws and standing orders of Community College District VIII, amending WAC 132H-105-140;

that the institution will at 1:30 p.m., Tuesday, April 12, 1988, in the Board Room, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 12, 1988.

Dated: February 24, 1988

By: Paul N. Thompson
President

STATEMENT OF PURPOSE

Description of Purpose: Amends chapter 132H-105 WAC pertaining to correcting titles listed in section 140 of the bylaws and standing orders of Community College District VIII.

Statutory Authority: RCW 28B.50.140.

Summary of Rule: The bylaws and standing orders of Community College District VIII.

Reasons Supporting Proposed Action: To accurately reflect the correct titles stated in this section.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul N. Thompson, President, Bellevue Community College, 3000 Landerholm Circle S.E., P.O. Box 92700, Bellevue, WA 98009-2037.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Board of Trustees, Bellevue Community College District VIII, public.

Institution Comments or Recommendations, if any: None.

Rule Necessary as Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 61, filed 9/13/78)

WAC 132H-105-140 DELEGATION OF AUTHORITY FOR HIGHER EDUCATION PERSONNEL LAW - CLASSIFIED PERSONNEL. Be it resolved that the President or his designee, the ((Executive Assistant to the President and Director of Personnel)) Dean of Student Programs and Personnel Services, is hereby delegated the power and duty of the Board of Trustees to act in its behalf as the appointing authority of the college for the purpose of the Higher Education Personnel Law. This delegation shall include but not be limited to the authority to employ, dismiss, suspend, demote, lay off, reassign or accept the resignations of members of the classified staff. In addition, the President or his designee, the ((Executive Assistant to the President and Director of Personnel)) Dean of Student Programs and Personnel Services, is hereby delegated such authority as is necessary to effectuate the administration of the classified personnel; provided that all contracts between recognized bargaining agents of classified personnel and Bellevue Community College shall be valid only after those contracts have received the approval of the Board of Trustees. The President of the college or his designee, the ((Executive Assistant to the President and Director of Personnel)) Dean of Student Programs and Personnel Services, may be delegated the authority to negotiate on behalf of the Board of Trustees, but in no event shall the President or his designee, the ((Executive Assistant to the President and Director of Personnel)) Dean of Student Programs and Personnel Services, be authorized to bind contractually the college in any agreement with a recognized bargaining agent of the classified staff.

WSR 88-06-059

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Registration for Landscape Architects)

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Registration for Landscape Architects intends to adopt, amend, or repeal rules concerning licensing examination, amending WAC 308-13-032;

that the agency will at 9:30 a.m., Thursday, April 28, 1988, in the Mercury IV Meeting Room, Red Lion Inn, Sea-Tac, 18740 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.96.060.

The specific statute these rules are intended to implement is RCW 19.96.090 [18.96.090].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 18, 1988.

Dated: March 1, 1988

By: James D. Hanson
Assistant Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: State of Washington Board of Registration for Landscape Architects.

Purpose and Summary of Rules: WAC 308-13-032 is amended to clarify the passing criteria for the annual examination for registration. This amendment rescinds the requirement to average achieved scores.

Statutory Authority: RCW 18.96.060 and 18.96.090.

Reason Proposed: To establish a common, minimum passing score which is consistent with other states using the national examination. Further, this amendment rescinds the requirement to achieve a minimum average score computed from the six sections of the examination.

Responsible Personnel: Members of the board who have knowledge of and responsibility for drafting, implementing and enforcing these rules are the members of the board who include: Dom Shimono, Jeanne Batson, Gloria Joan Lawson, Keith Hellstrom and Marie Hewitt, in addition to the above mentioned board member, the following personnel of the Department of Licensing have responsibility for implementing and enforcing these rules: Sydney Beckett, Executive Secretary of the Board, and James Hanson, Assistant Executive Secretary of the Board, P.O. Box 9012, Olympia, Washington 98504-8001, phone (206) 753-6967 and scan 234-6967.

AMENDATORY SECTION (Amending Order PL 567, filed 11/18/85)

WAC 308-13-032 LICENSING EXAMINATION. The form of the examination required of applicants shall consist of a written and graphic examination. Subject to the provisions of RCW 18.96.090 the board adopts the Uniform National Examination, "UNE," prepared by the Council of Landscape Architectural Registration Boards (CLARB) as its examination, to test the applicant's qualifications and minimum competency for registration.

The board shall periodically, and in no event not less than once every year, review the passing grade score established by CLARB to ensure that such score conforms with the provisions of RCW 18.96.090. The board may convert raw scores received from CLARB to conform to the passing grade percentage established in RCW 18.96.090.

(1) Procedure for admittance to the "UNE":

(a) Upon completion of the qualifications for admittance to the "UNE" under WAC 308-13-020, submit the completed application provided by the board, including fees. The complete application, including fees, must be postmarked by March 15th or earlier to be considered for the next scheduled examination.

(b) No application fee will be refunded because of withdrawal from the examination.

(c) Examination fees are refundable when notice of withdrawal is given prior to the examination application deadline, March 15th.

(d) A completed application includes:

- (i) Green application form LA 656-3 with notarization;
- (ii) Three landscape architect references;
- (iii) Two references from related design professionals;
- (iv) Transcript of academic experience showing courses taken and degree awarded;
- (v) Verification of work experience;
- (vi) Application and examination fees.

(e) Notice of acceptance, along with preexamination information, will be mailed to accepted applicants approximately six weeks in advance of the examination, accompanied by specific details regarding the time and place of the examination.

The written examination, the "UNE," is administered over a two-day period in June each year. The examinees are tested on their ability to exercise value judgments in actual landscape architecture situations.

(2) Examination scoring:

(a) The written parts of the examination are machine scored. The graphic parts of the examination are graded in a manner prescribed by the landscape architect board members.

(b) To pass the examination, an applicant must achieve a passing score of seventy-five percent on each of the six sections of the examination. ((The minimum passing score is seventy in any subject, when an average score of all sections is seventy-five percent of a possible one hundred percent.))

(c) Applicants are notified of their grades by mail. No grades are given by telephone.

(d) Reexamination information is given on the examination grade sheet. NO OTHER NOTICE MAY BE GIVEN. See WAC 308-13-025 for reexamination information.

**WSR 88-06-060
ADOPTED RULES
BOARD OF PHARMACY**
[Order 211—Filed March 2, 1988]

Be it resolved by the Washington State Board of Pharmacy, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 360-10-010, 360-10-050 and 360-10-060 concerning pharmacy internship and adopting WAC 360-36-425 designating schedule II immediate precursors.

This action is taken pursuant to Notice No. WSR 87-24-096 filed with the code reviser on December 2, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.64.005(11) which directs that the Board of Pharmacy has authority to implement the provisions of RCW 18.64.080(4) and 69.50.201.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED January 21, 1988.

By Joseph B. Honda
Chair

AMENDATORY SECTION (Amending Order 139, filed 12/9/77)

WAC 360-10-010 GENERAL REQUIREMENTS. (1) RCW 18.64.080(5) states: "Any person enrolled as a student of pharmacy in an accredited college may file with the state board of pharmacy an application for registration as a pharmacy intern——." A student of pharmacy shall be defined as any person enrolled in a college or school of pharmacy accredited by the board of pharmacy or any ((person enrolled in a prepharmacy program at an accredited college, and whose credits are acceptable for transfer by accredited colleges)) graduate of any accredited college or school of pharmacy.

(2) As provided for in RCW 18.64.080 ((((3))))(4) the board ((may specify not more than one year of internship requirement. The board)) of pharmacy hereby establishes fifteen hundred hours for the internship requirement. ((Credit may be allowed for up to three hundred hours for the completion of approved clinically oriented classes within a college of pharmacy; provided further that an additional five hundred hours of credit for the internship shall be granted to graduates of schools or colleges of pharmacy approved by the board:))

(a) For graduates prior to July 1, 1991, credit may be allowed:

(i) Up to seven hundred hours for experiential classes as part of the curriculum of an accredited college or school of pharmacy commonly referred to as externship/clerkship;

(ii) Up to five hundred hours of credit for the internship shall be granted to graduates of board approved schools or colleges of pharmacy;

(iii) Seven hundred hours or more for experience obtained after completing the first quarter/semester of pharmacy education, and including any breaks or vacations.

(b) For graduates after July 1, 1991, credit may be allowed:

(i) Up to seven hundred hours of experiential classes as part of the curriculum of an accredited college or school of pharmacy commonly referred to as externship/clerkship;

(ii) Eight hundred or more hours for experience obtained after completing the first quarter/semester of pharmacy education, and including any breaks or vacations of which at least two hundred hours must be gained within the last twelve months prior to licensure.

(c) The board will document hours in excess of these requirements for students qualifying for out-of-state licensure.

(3) An applicant for licensure as a pharmacist who has completed seven hundred internship hours will be permitted to take the state board examination for licensure; however, no pharmacist license will be issued to the applicant until the fifteen hundred internship hours have been completed.

(4) ((Credit for up to five hundred hours at the rate of no more than fifteen hours per week may be allowed for part-time experience gained during the period while a student is regularly enrolled in a college; and full-time experience allowed while a student is enrolled for less than six quarter credit hours or four semester credit hours. This shall not exclude experience gained during regular student holiday and vacation periods.)

((5))) To retain a certificate as a pharmacy intern ((for the six year period prescribed by law)), the intern must make continuing satisfactory progress in completing the pharmacy course.

((6))) (5) Experience must be obtained under the guidance of a preceptor who has met certification requirements prescribed in WAC 360-10-050 and has a certificate except as hereinafter provided for experience gained outside the state of Washington.

((7))) (6) Experience obtained in another state may be accepted toward the fulfillment of the fifteen hundred hour requirement provided that a letter is received from the board of pharmacy of that state in which the experience is gained and such letter indicates the experience gained would have been acceptable internship experience to the board of pharmacy in that state.

((8)) A pharmacy intern shall not receive credit for any hours which predate his enrollment in a school of pharmacy, which does not include enrollment in a pre-pharmacy educational program. PROVIDED HOWEVER, That any pharmacy internship hours which predate this amendatory regulation shall be acceptable for any intern taking the state pharmacy board examination prior to July 1, 1972.)

AMENDATORY SECTION (Amending Order 106, filed 6/3/71)

WAC 360-10-050 REQUIREMENTS FOR PRECEPTOR CERTIFICATION. (1) A pharmacist who is ((registered)) licensed and actively engaged in practice in a Class A pharmacy in the state of Washington, and who has met certification requirements prescribed in this section of the regulation and who has ((been certified by the board of pharmacy shall be known as a "pharmacy preceptor.")) completed a board approved training program within the last five years, and who has been certified by the board of pharmacy shall be known as "pharmacist preceptor." The requirement for completion of an approved training program becomes effective January 1, 1990.

(2) The ((pharmacy)) pharmacist preceptor must have completed twelve months as a ((registered)) licensed pharmacist engaged in the ((compounding and dispensing of pharmaceuticals)) practice of pharmacy as defined in RCW 18.64.011(11).

(3) Any preceptor or preceptor applicant who has been found guilty of a drug or narcotic violation or

whose pharmacist license has been revoked ((or)), suspended, or placed on probation by the state board of pharmacy shall not be eligible for certification as a preceptor, ((unless special permission is obtained from the board of pharmacy)) until completion of the probationary period, and a showing of good cause for certification as a pharmacist preceptor.

(4) ((The pharmacy preceptor shall subscribe the following professional standards:

(a) The preceptor shall use every precaution to safeguard the public when dispensing any drugs or preparations; he shall make no attempt to prescribe for or to treat disease.

(b) The preceptor shall keep his pharmacy clean, neat, and sanitary, and well equipped with accurate measuring and weighing devices and other apparatus suitable for the proper performance of his professional duties.

(c) The preceptor shall be a good citizen and uphold and defend the laws of the states and nation; he shall keep himself informed concerning pharmacy and drug laws, and other laws pertaining to health and sanitation, and shall cooperate with the enforcement authorities.

(d) The preceptor shall willingly make available his expert knowledge of drugs to the intern and other health professions.

(e) The preceptor shall strive to perfect and enlarge his professional knowledge. He shall keep himself informed regarding professional matters by reading current pharmaceutical, scientific, and medical literature, attending seminars and other means.

(f) The preceptor shall seek to attract to his profession, youth of good character and intellectual capacity and aid in their instruction.

((g))) The preceptor shall be responsible for the quality of the internship training under his/her supervision and he/she shall ((insure)) assure that the intern actually engages in pharmaceutical activities during that training period.

(5) The board of pharmacy shall withdraw a preceptor's certification upon proof that the preceptor failed to meet or maintain the requirements as stated in this section.

(6) In considering the approval of special internship programs pursuant to WAC 360-10-080, the board may approve alternative qualification requirements for the preceptors of such programs.

AMENDATORY SECTION (Amending Order 102, filed 12/5/69)

WAC 360-10-060 RULES FOR PRECEPTORS. (1) The ((pharmacy)) pharmacist preceptor shall supervise the pharmacy intern and shall be responsible for the sale of restricted items, and the compounding and dispensing of pharmaceuticals dispensed by an intern.

(2) The pharmacist preceptor must use the board approval plan of instruction for interns.

(3) Upon completion of the intern's experience at each site, the preceptor under whom this experience was obtained shall file a report with the board. Such report shall briefly describe the type of professional experience received under the preceptor's supervision and the

preceptor's evaluation of the intern's ability to practice pharmacy at that stage of internship.

(4) The board of pharmacy shall provide the necessary affidavit forms to certify hours of experience under the personal supervision of a preceptor. Affidavits must be certified and recorded in the office of the board not later than thirty days after the completion of any site intern experience; provided that any experience necessary for eligibility to take the licensing examination must be in the board office no later than thirty days prior to the examination.

(5) The ((pharmacy)) pharmacist preceptor may supervise more than one intern during a given time period; however, two interns may not dispense concurrently under the direct supervision of the same preceptor. ((This is to say that two interns may dispense and record internship experience in the same day under one preceptor's direct supervision; however, they may not dispense and record internship experience during the same hour of the day.))

NEW SECTION

WAC 360-36-425 SCHEDULE II IMMEDIATE PRECURSORS. (1) The board finds and designates the following substances as being the principal compound used or produced primarily for use and which are an immediate chemical intermediary used or likely to be used, in the manufacture of a schedule II controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(2) Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or their salts or isomers having potential for abuse associated with the preparation of controlled substances shall be a schedule II controlled substance.

- (a) Anthranilic acid.
- (b) Ephedrine.
- (c) Methylamine.
- (d) Phenylacetic acid.
- (e) Pseudoephedrine.
- (f) Methephedrine.

Except that any drug or compound containing Ephedrine, or any of its salts or isomers, or Pseudoephedrine, or any of its salts or isomers that are prepared for dispensing or over-the-counter distribution and are in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances for the purpose of this section.

WSR 88-06-061

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order PFT 8803—Filed March 2, 1988]

I, Theresa Anna Aragon, director of the state of Washington Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to vehicle registration reciprocity and proration, chapter 308-91 WAC, amending WAC 308-91-010,

308-91-030, 308-91-040, 308-91-050, 308-91-060, 308-91-070, 308-91-080, 308-91-090; adding new sections WAC 308-91-120, 308-91-130, 308-91-140, 308-91-150, 308-91-160, 308-91-170; and repealing WAC 308-91-020, 308-91-100 and 308-91-110.

This action is taken pursuant to Notice No. WSR 88-03-067 filed with the code reviser on January 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapters 46.87 and 46.85 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 46.87.010(2) which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 46.87 RCW.

This rule is promulgated under the general rule-making authority of the director of the Department of Licensing as authorized in RCW 46.01.110.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 1, 1988.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-010 PRORATION AND RECIPROCITY AGREEMENTS. The state of Washington is a member of the uniform vehicle registration proration and reciprocity agreement which is hereafter referred to as the "compact" and the international registration plan which is hereafter referred to as the "IRP." ((This)) These agreements provide(s) for the proportional registration of fleets of commercial or apportioned vehicles operated in two or more jurisdictions that are members of the compact and/or the IRP. ((Other member jurisdictions of the compact are: Alaska, Alberta, Arizona, British Columbia, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah and Wyoming.))

The state of Washington has bilateral agreements, which are similar to the compact, with the states of Oklahoma, Texas and Wisconsin.)) Member jurisdictions of the compact who are not also members of the IRP are Alaska, British Columbia, Nevada, and New Mexico.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-030 DEFINITIONS. The definitions set forth below, and in ((this section,)) chapters 46.04 ((and)), 46.85, and 46.87 RCW, apply throughout this chapter.

(1) "Backing plate" means a license plate which is designed for displaying validation decals, stickers or tabs

issued by jurisdictions of the compact in which the vehicle displaying the plate is proportionally registered.

(2) "Base jurisdiction", under provisions of the compact, means the jurisdiction in which the owner has "properly registered" vehicle(s) of a fleet as defined in RCW ((46.85.020(4))) 46.87.020(14).

(3) "Base plate" means the vehicle license plate assigned to a vehicle by the base jurisdiction. Under the provisions of the IRP, this would be an "apportioned plate."

(4) ("Cab card" means the certificate of license registration issued for a proportionally or reciprocity registered vehicle.

((5)) "Compact" means the uniform vehicle registration proration and reciprocity agreement.

((6)) (5) "Combination of vehicles" means a power unit used in combination with trailer(s) ((and/or)), semi-trailer(s) and/or converter gear.

((7)) "Declared combined gross vehicle weight" means the total unladen weight of any combination of vehicles plus the maximum load to be carried on that combination of vehicles for which registration fees have been or are to be paid.

(8) "Declared gross vehicle weight" means the total unladen weight of any vehicle plus the maximum load to be carried on that vehicle for which registration fees have been or are to be paid.

((9)) (6) "Department" means the department of licensing, state of Washington.

((10)) (7) "Interstate operation" means vehicle movement between or through two or more jurisdictions.

((11)) (8) "Intrastate operation" means vehicle movement within a single jurisdiction, from one point within that jurisdiction to another point within the same jurisdiction.

((12)) (9) "Latest purchase cost or price" means the actual purchase cost or price, if reasonable, for a vehicle paid by the current owner, ((if reasonable,)) including the value of any trade-in or other valuable considerations, cost of accessories and modifications but excluding taxes. Reasonable purchase cost is considered to be the fair market value of the vehicle as determined from guide books, reports or compendiums of value recognized in the automotive industry. All values are to be expressed in ((U.S.)) United States dollars.

((13)) "Lease" means a written document vesting exclusive possession, control of and responsibility for the operation of the vehicle to the lessee for a specified period of time.

(14) "Leased vehicle" means a vehicle which is leased for a period exceeding thirty days. The rental of a vehicle, or a series of rentals of a vehicle, amounting to more than thirty days is considered to be a leased vehicle.

((15)) (10) "Reciprocity jurisdiction" means a jurisdiction with which the state of Washington extends full vehicle license reciprocity because of an agreement, arrangement, declaration or mirror reciprocity as provided for in RCW 46.85.080.

((16)) "Rental vehicle" means a vehicle which is licensable under the provisions of chapter 46.16 RCW and rented or offered for rent without driver. Rentals are for a specified period which will not exceed thirty days.)

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-040 GENERAL PROVISIONS. (1) Fleet composition. Carriers may separate their commercial or apportionable vehicles into two or more fleets if such divisions are consistent with their operational practices, by reason of equipment design, or restrictions imposed by member jurisdictions.

(2) Records substantiating the latest purchase cost or price and year of purchase of each vehicle in the fleet must be retained for the period specified in RCW ((46-85.190)) 46.87.310 and made available to the department upon request.

(3) Filing and compliance dates. ((Prorate)) Proportional registration annual renewal applications must be filed with the prorate section of the department on or before December 1 of the year immediately preceding the year in which proportional registration is sought to insure timely issuance of identification for the new registration year. No temporary operating authority will be issued for renewal vehicles if the renewal application is received by the department after the above date. Washington proportional registrations expire at midnight, December 31st of each registration year; however, vehicles undergoing renewal processing and for which renewal fees and taxes have been received by the department prior to the beginning of the registration year, will have until March 1st of such registration year to display current year prorate ((identification,)) credentials. During the first two months of the registration year, such vehicles will display the ((identification)) credentials issued for the previous registration year.

(4) ((Prorate identification)) Proportional registration credentials. Washington prorate ((identification)) credentials consist((s)) of a cab card, which describes the vehicle and period for which the vehicle has been proportionally registered, and a prorate backing plate upon which is affixed a current prorate validation ((decat)) tab. If the vehicle described on the cab card is Washington based, apportioned license plates, with current validation tab affixed, will be issued in lieu of the backing plate. If the vehicle is operating under the IRP, the cab card must show the jurisdiction(s) and gross weight for which the vehicle is registered. The cab card is to be carried in or on the vehicle to which it has been issued, or in the case of a trailing unit, it may be carried in or on the power unit of the combination. Photocopies or other facsimiles of the cab card are invalid. The cab card issued by the department or the IRP base jurisdiction is the only acceptable evidence of proportional registration in this state. The prorate backing plate, if applicable, is mounted on the front of a power unit and on the rear of a trailing unit. The validation ((decat)) tab shall be affixed to the upper left-hand corner square of the prorate backing plate or the space designated on the apportioned plate if applicable.

(5) Transfer of ((prorate identification)) proportional registration credentials. Washington ((prorate identification)) proportional registration credentials cannot be transferred from one vehicle to another vehicle or from one carrier to another carrier.

(6) Surrender of ((prorate identification)) proportional registration credentials. Upon termination of proportional registration or deletion of a vehicle from a fleet, prorate ((identification)) credentials will be disposed of as follows:

(a) Vehicle based in Washington. The cab card and ((prorate backing)) apportioned plate(s) with validation ((decat)) tab attached must be returned to the prorate section of the department. If vehicle is being deleted from the fleet, ((identification)) credentials must accompany the application effecting the deletion. ((The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.))

(b) Vehicle registered under provisions of the compact and based in another jurisdiction. Only the Washington cab card is returned to the prorate section. The prorate backing plate with validation ((decat)) tab attached must be returned to the prorate unit of the base jurisdiction licensing agency. If vehicle is being deleted from the fleet, cab card must accompany the application effecting the deletion. The end of year (December 31st) deletion of a vehicle listed on the renewal application need not be accompanied by the identification issued to such vehicle.

(c) Vehicles based in IRP jurisdictions. Upon termination of proportional registration or deletion of a vehicle from a fleet, the credentials must be returned to the base jurisdiction.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-050 APPLICATIONS FOR PROPORTIONAL((/RECIPROCITY)) REGISTRATION. Applicants desiring proportional ((and/or reciprocity)) registration in this state must make application to the prorate section of the department in the manner and upon the forms prescribed. Forms will be made available by the department. Washington based carriers desiring registration in other IRP jurisdictions must indicate on their applications the jurisdictions in which the fleet is (is to be) registered, list vehicles by gross weight groups and indicate within each gross weight group the gross weight each vehicle of the group is to be registered for in each jurisdiction listed. Incorrect or incomplete applications will be returned without action.

The application for any fleet shall bear the same applicant's name, or be identified therewith, for each jurisdiction in which proportional registration is sought for such fleet.

After an original ((prorate)) proportional registration application has been filed with this state for a fleet ((with this state)), vehicles can only be added((;)) or deleted, or changes made in registered/combined gross vehicle weight ((made)), by filing a proration application supplement - Schedule "C" in the manner prescribed.

In circumstances where immediate operation of vehicles being added to the fleet is essential, a temporary letter of authority may be requested by the applicant for such vehicles, pending processing of the application and issuance of prorate ((identification)) credentials by the department, provided that:

(1) Licensing fees and taxes have been paid in full for the fleet's original Washington ((prorate)) proportional registration application; and

(2) The ((proration)) proportional registration renewal application or supplement - Schedule "C" adding such vehicles to the ((prorate)) proportionally registered fleet is acceptable and on file in the prorate section of the department; and

(3) The applicant's ((prorate)) proportional registration account is considered to be in good standing and on active status.

The temporary letter of authority will permit operation of the vehicles listed thereon, in jurisdictions and at gross weights indicated, for a period of time to be determined by the department but not longer than two months from the effective date of the letter. The temporary letter of authority will be issued by one of the following means as requested by the applicant:

(1) Mail;

(2) Collect facsimile or other electronic transmission for which the requestor pays the transmission fees.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-060 MILEAGE AND PRORATE PERCENTAGE. (1) Vehicles developing mileage experience must travel in two or more jurisdictions during the ((mileage experience)) registration year ((which is defined as the period July 1 through June 30 of the year immediately preceding the registration year for which proportional registration is being sought)). The mileage reported must be the actual miles accumulated by only those vehicles that were part of the ((prorate)) proportionally registered fleet during the mileage experience year. If a vehicle was part of the ((prorate)) proportionally registered fleet for only a part of the experience year, then only the miles accumulated by this vehicle during the time it was a part of the fleet are to be included in the mileage experience year. If a carrier has more than one prorate fleet, a separate mileage report must be kept for each fleet.

(2) Vehicles operating only intrastate are not eligible for proportional registration and cannot be considered as part of a prorate fleet. Mileage accumulated by such vehicles cannot be included in the mileage experience year of any prorate fleet.

(3) Mileage computation.

(a) Applications containing either power units and trailing units pulled by such power units or power units only: Use miles of prorate fleet power units only.

(b) ((Applications)) Fleets containing ((power and)) trailing units ((from the same carrier with separate statements for power units and trailing units. Use only miles of prorate fleet power units for power unit statement. Use miles of all applicant's line power units, whether prorated or not, operated interstate in combination with prorated trailers for the trailer statement)) that are operated in jurisdictions in addition to those in which the power units of the fleet are operated, or trailing units of a fleet operated with motor vehicles that are not part of the fleet, shall be placed in separate fleets.

(c) Applications for trailer fleet only: Use miles of power units only, whether prorated or not, which are operated in combination with the prorated trailers.

(4) The prorate section of the department will not accept any original or renewal prorate applications which contains one or more of the following:

(a) Estimated mileage that does not realistically reflect proposed operations.

(b) Estimated mileage on renewal applications, unless operations began so late in the previous registration year that an actual mileage experience year is not yet available.

(c) Mileage data, other than estimated mileage, expressed in rounded-off numbers on renewal applications.

(d) Identical mileage data reported for consecutive registration years for the same fleet, except when mileage is estimated.

(5) To compute the prorate percentages, divide the miles for each jurisdiction by the total fleet miles. The results are to be computed to the fourth decimal of the percent and rounded up to the third decimal. Express the percent in two digits before the decimal and three digits after the decimal. The Washington prorate percentage established on an original or renewal application will remain in effect for all supplemental applications filed during the registration year unless adjusted by audit or under the provisions of RCW ((46.85.170)) 46.87.120.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-070 QUARTERLY ((TONNAGE)) LICENSING FOR PROPORTIONALLY REGISTERED VEHICLES. In order to participate in the quarterly (three months) ((tonnage)) licensing program, a Washington based carrier must initially make its desire known to the prorate section by attaching a note or letter to the original or renewal proration application stating its desire to participate in the quarterly ((tonnage)) licensing program. Participation will then continue as long as the fleet maintains eligibility under the provisions of RCW 46.87.160, the carrier withdraws from the program or the privilege is withdrawn by the department for cause. ((Quarterly tonnage will expire at midnight on the last day of each calendar quarter—March 31, June 30, September 30, and December 31.

To maintain eligibility to purchase tonnage on a quarterly basis, the following rules must be adhered to:

(1) The fleet must be Washington based, contain a minimum of three power units at all times and have a Washington prorate percentage of sixty percent or more.

(2) Each power unit within the fleet must be licensed for at least 68,000 pounds of combined gross vehicle weight.

(3) Quarterly tonnage is based on the calendar quarters of each registration year and must be renewed each quarter for each power unit in the fleet which has not been permanently removed from the fleet. Removal from the fleet is accomplished by filing, with the prorate section, a proration application supplement—Schedule "C," upon which such vehicle is listed as a deletion. The cab card prorate backing plate and validation decal issued to

each vehicle being deleted must accompany the application effecting the deletion.

(4) Quarterly renewal tonnage fees must be paid prior to the beginning of the quarter for which fees are due. New identification will not be available for at least four business days after receipt of payment. No letters of authority will be issued for quarterly tonnage renewals.

Failure to comply with the above requirements will be cause for suspension and/or cancellation of the carrier's quarterly tonnage privileges. Upon cancellation of these privileges, tonnage fees for the remainder of the registration year will be immediately due and payable for all power units in the fleet:)) This program pertains only to the quarterly payment of the license fee prescribed in RCW 46.16.070; it does not authorize partial payment of any other fee or tax authorized or required for payment by another statute or rule.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-080 TEMPORARY AUTHORIZATION PERMIT. Washington temporary authorization permits (TAPs) are available to carriers who have been prorated with the state of Washington for a minimum of one year; have not had their TAP or prorate privileges suspended, revoked or canceled in this state within the past three years; and who have a history of making prompt payment of fees when due and final, usually within thirty days of the billing date. These permits may be used by qualified carriers to allow immediate operation of vehicles being added to their fleet pending issuance of ((prorate license identification)) proportional registration credentials.

Carriers desiring the privilege of obtaining and using TAPs must make application in writing to the prorate section of the department and indicate their anticipated annual requirements for these permits. Upon approval of the application, the carrier may place an order for ten or more TAPs utilizing order forms to be provided by the department; payment as prescribed in RCW ((46.85.130)) 46.87.080 must accompany the application. TAPs are valid for a period of two months from the date of issue by the carrier. The following procedures govern the use and issuance of these permits:

(1) TAPs are serially numbered and must be issued by the carrier in sequential order. Carriers are accountable and liable for all TAPs purchased from the department. These permits are not transferable and may be utilized only by the carrier to whom they were issued for use with vehicles being added to their fleet or fleets. Carriers must return all unused TAPs at such time as they cancel or fail to renew their Washington prorate account; or at such time as the department withdraws, suspends, revokes or cancels their TAP and/or prorate privileges in this state. No refunds or credits will be given for TAPs that are returned to the department.

(2) TAPs may only be used for vehicles being added to a carrier's established fleet. They cannot be used to increase ((vehicle)) gross weight on a vehicle or for a vehicle that has already been listed on ((proration)) a proportional registration application Schedule "A" or

((proration)) prorational registration application supplement Schedule "C" or renewal application which has been submitted to the prorate section of the department. Only one permit may be issued for any one vehicle.

(3) TAPs must be filled out with a typewriter. All applicable blanks must be completed with requested data. If an error is made in the issue date((; or)), expiration date((; or)), gross weight((; or)), license plate number((; or)), serial/identification number blanks or in the jurisdiction/weight section, void the permit by printing the word "VOID" in large letters across the face of the permit ((and)). Then return the vehicle copy and prorate copy to the department within one week or with your next proration application supplement, whichever is ((soonest)) sooner. If TAP is to be used for a vehicle being added to a fleet registered under the provisions of the IRP, the jurisdiction postal code abbreviation, along with the declared operating weight for such jurisdiction, must be indicated in the space provided for each jurisdiction in which the fleet is registered. Jurisdiction/weight listings must begin in the upper left space provided and continue across the form to the right. Each line must be completed before starting the next line immediately below if needed. After the last entry, spaces to the right must be filled with asterisks as must be the entire line immediately below the last completed line in this section of the form. The purpose of the asterisks is to preclude entry of additional jurisdictions/weights. Retain the applicant's file copy for ((five)) four years pending possible audit of account under the provisions of RCW ((46.85.190)) 46.87.310. No refund or credit will be given for voided permits; and, they must be accounted for in the department records.

(4) The original copy of the TAP is to be carried in the vehicle to which it was issued; however, if the vehicle is a trailing unit, it may be carried in the towing vehicle. The second copy of the permit is to be retained in the carrier's files for a period of ((five)) four years pending possible audit under the provisions of RCW ((46.85-190)) 46.87.310. The third copy is to be attached to a Washington proration application supplement which is used to add the vehicle to the carrier's fleet.

(5) When TAPs have been issued, a proration application supplement Schedule "C," listing such vehicles as additions to the fleet, must be submitted to the prorate section of the department, along with the third copy of the TAP attached, within one week of the issue date of such TAPs. To facilitate compliance with this requirement, proration application supplement Schedule "C" and TAPs should be issued from the same location. Failure to submit a proration application for vehicles to which TAPs have been issued, within one week, shall be cause for suspension and cancellation of TAP and/or proportional registration privileges in the state of Washington.

(6) Other causes for suspension and cancellation of TAP and/or proportional registration privileges are:

- (a) Failure to comply with these rules and procedures; or
- (b) Failure to complete TAPs in their entirety prior to use; or

(c) Failure to comply with Washington prorate instructions, rules or laws; or

(d) Failure to make timely payment of registration fees, taxes or audit assessments when due and final (usually within thirty days); or

(e) Failure to maintain accountability of TAPs.

AMENDATORY SECTION (Amending Order 739 DOL, filed 12/28/83)

WAC 308-91-090 LEASED AND RENTED VEHICLES. (1) ((Vehicles which are leased or rented for a period in excess of thirty days, or a series of short term leases or rentals amounting to more than thirty days, must be registered in the name of the lessee who must also maintain accurate mileage records. For leases or rentals of thirty days or less, the lessor must maintain an accurate record of miles operated by the lessee in each jurisdiction as well as the miles that the lessor operates the vehicle)) The registration of rental vehicles will be conducted under the provisions, currently identified as article XI—registration of rental vehicles, of the international registration plan (IRP) as now written or hereafter amended. Rental vehicles under this section include: Trucks, tractors, and truck-tractors; trucks of one-way fleets (less than 26,000 pounds gross weight); trailers and semitrailers (exceeding 6,000 pounds gross weight), utility trailers (not exceeding 6,000 pounds gross weight), and passenger cars (includes recreational vehicles). A copy of the rental/lease agreement must be carried in the rental/leased vehicle or if it is a nonpowered vehicle, the vehicle providing the motive power for the combination.

(2) Single trip lease. The requirements for single trip leasing are as follows:

(a) The lessor's vehicles must be prorated in this state or operated under authority of vehicle trip permits.

(b) The duration of the lease agreement is for a single trip and cannot exceed thirty days.

(c) A completed copy of the single trip lease agreement must be carried in the lessor's vehicle throughout the duration of the lease.

(d) All mileage accumulated throughout the duration of the single trip lease agreement will be recorded by the lessor and become a part of the lessor's mileage experience year. The mileage records, trip reports and single trip lease agreement must be maintained by the lessor for a period of four years following the mileage experience year or period upon which the application is based.

(3) ((The compact provides that)) Normally the lessee of a vehicle is responsible for its licensing under proportional registration subject to the following exceptions:

(a) Household goods carriers, wherein the agent is the lessor and the company is the lessee, may file and register as dual applicants. Under this procedure, the lessor's fleet is prorated in ((their)) its name and cab cards are issued in the name of both the lessor and lessee. The application is based on the lessor's vehicles and the mileage accumulated by the lessor under ((his)) its name and that of the lessee. The application should be ((registered)) filed in the name of the lessee and the lessor. For equipment owned and operated by owner-operators, other than service representatives, and used exclusively

to transport cargo for the household goods carrier, the vehicle shall be registered by the carrier in the base jurisdiction of the carrier, but in both the owner-operator's name and that of the carrier as lessee, with the apportionment of fees according to the records of the carrier.

(b) The lessor of a single trip lease agreement is responsible for licensing and recordkeeping.

(c) Optional for rental vehicles referred to in subsection (1) of this section.

NEW SECTION

WAC 308-91-120 FEDERAL HEAVY VEHICLE USE TAX. (1) Any owner registering a Washington based fleet of commercial vehicles in one or more other jurisdictions and engaged in interstate operation, may, in lieu of registration of vehicles under the provisions of chapter 46.16 RCW, proportionally register the vehicles of the fleet under the provisions of chapter 46.87 RCW by filing a proportional registration application with the department.

(2) The department of licensing shall require owners of motor vehicles with a declared combined gross weight of 55,000 pounds or more to provide proof, acceptable to the department, that the federal heavy vehicle use tax imposed by section 4481 of the Internal Revenue Code of 1954 has been suspended or paid at the time of registration unless specifically exempt by the rules and regulations of the Internal Revenue Service. The department shall refuse registration of such vehicles if sufficient proof is not presented at time of registration. Acceptable proof for registration purposes is:

(a) The original or photocopy of an Internal Revenue Service (IRS) receipted schedule 1 (IRS form 2290) schedule of highway motor vehicles; or

(b) Photocopy of IRS form 2290 with schedule 1 as filed with the IRS and a photocopy of the front and back sides of the cancelled check used for the payment of taxes to the IRS.

NEW SECTION

WAC 308-91-130 HUNTER'S PERMIT. (1) Upon request, Washington will provide a means of temporary registration (hunter's permit) for owner-operators to move their empty vehicle or combination of vehicles from one lessee-carrier fleet, which they were a part of, to a new lessee-carrier fleet to which they will become a part of. This temporary authority will be issued without cost and be valid for ten days from the date of issue. Photocopies of the permit will not be valid.

(2) The purpose of a hunter's permit is to allow an owner-operator to move their empty (unladen) vehicle or combination of vehicles from one lessee-carrier fleet to another without the need for further registration and/or violation of general registration statutes in IRP jurisdictions.

(3) A hunter's permit issued by an IRP jurisdiction to an owner-operator, who was formerly based in such jurisdiction, will be honored in this state for operation at

the unladen weight of the vehicle or combination of vehicles listed therein. If vehicles operating under authority of a hunter's permit attempt to carry any load or if the permit appears to have been tampered with, it shall be considered to be invalid and will be confiscated. Photocopies of hunter's permits are not acceptable.

NEW SECTION

WAC 308-91-140 VEHICLE TRANSACTION FEE. The vehicle transaction fee pursuant to RCW 46.87.130 is hereby established in the amount of three dollars.

NEW SECTION

WAC 308-91-150 FORM OF PAYMENT REQUIRED—DISHONORED CHECKS. (1) An original or renewal application assessment for proportional registration fees/taxes due the state of Washington shall be paid in United States funds via cash, cashier's check, certified check, or money order. All other assessments may be paid by company or personal checks unless guaranteed payment is specifically required by the department.

(2) Any registrant who tenders two or more checks that are subsequently dishonored by the bank or other financial institution upon whom they were drawn, in any twelve continuous month period, may be required to tender all subsequent payments in person by cash or by cashier's check, certified check, or money order.

(3) A handling fee in the amount of ten dollars shall be assessed the drawer for each check dishonored by the bank or other financial institution upon whom it was drawn and interest on the amount of each check shall accrue from the date of dishonor at the rate of twelve percent per annum. The interest and handling fee shall be deposited into the highway safety fund.

NEW SECTION

WAC 308-91-160 RECIPROCITY FOR COMBINATIONS OF VEHICLES. Combinations of vehicles operating in or through the state of Washington will be granted reciprocity if the vehicles making up the combination are all properly registered in reciprocity jurisdictions. Combinations containing one or more vehicles that are not properly registered in reciprocity jurisdictions will cause all vehicles within the combination to be registered or temporarily registered in the state of Washington.

NEW SECTION

WAC 308-91-170 WASHINGTON FEE/TAX RECEIPT. When an IRP member jurisdiction, acting in behalf of the state of Washington, issues a cab card indicating a vehicle is duly registered for operation in or through the state of Washington but the IRP member jurisdiction has not first calculated and collected the prescribed fees/taxes for such vehicle, the cab card will not be honored in this state unless accompanied by a Washington fee/tax receipt. Such receipt will only be

issued after this state calculates and collects the prescribed fees/taxes for the vehicle being registered.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-91-020 INSTRUCTIONS, PROCEDURES AND DECLARATIONS.

WAC 308-91-100 OPERATION OF RENTAL VEHICLES.

WAC 308-91-110 UTILITY TRAILER RENTALS—CERTIFIED AVERAGE REGISTRATION PLAN.

WSR 88-06-062

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd	WAC 251-14-020	Employee organization filing requirements.
Amd	WAC 251-14-052	Agency shop representative election.
Amd	WAC 251-14-054	Agency shop representative decertification election.
Amd	WAC 251-14-058	Agency shop requirements.
Amd	WAC 251-10-170	Dismissal—Agency—Notice—Revision.
New	WAC 251-01-258	Nonassociation fee.
New	WAC 251-01-367	Representation fee;

that the agency will at 9 a.m., Friday, April 15, 1988, in the Student Center Conference Room, Olympic College, 16th and Chester, Bremerton, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

This notice is connected to and continues the matter in Notice No. WSR 88-02-072 filed with the code reviser's office on January 6, 1988.

Dated: March 2, 1988

By: John A. Spitz
Director

WSR 88-06-063

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd	WAC 251-12-080	Appeals from demotion, suspension, salary reduction, dismissal.
New	WAC 251-12-081	Appeals from layoff, separation.
Amd	WAC 251-12-250	Findings of fact—Conclusions of law—Filing procedure.
Amd	WAC 251-12-270	Superior court appeals—Grounds—Notice requirements.
Amd	WAC 251-12-290	Superior court appeals—Preparation of record—Time limitations—Cost;

that the agency will at 9 a.m., Friday, April 15, 1988, in the Student Center, Conference Room, Olympic College, 16th and Chester, Bremerton, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 14, 1988.

Dated: March 2, 1988

By: John A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on March 2, 1988, and is filed pursuant to RCW 34.04.025.

Description of Purpose: The only board decisions from which a party has a statutory right to appeal to superior court are from disciplinary cases. However, the HEPB rules appear to give this right to all board appeal decision—examinations, allocations, etc. These modifications bring the rules into compliance with the statutes and remove the confusion.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Title: WAC 251-12-080 Appeals from demotion, suspension, salary reduction, dismissal.

Summary of Rule: Grants appeal rights to permanent employees who are demoted, suspended, reduced in salary, or dismissed through disciplinary action.

Title: WAC 251-12-081 Appeals from layoff, separation.

Summary of Rule: Grants appeal rights to permanent employees who are laid off or separated for disability.

Title: WAC 251-12-250 Findings of fact—Conclusions of law—Filing procedure.

Summary of Rule: This rule requires the board to issue orders following appear hearings. Such orders are final and are subject to review by superior court.

Title: WAC 251-12-270 Superior court appeals—Grounds—Notice requirements.

Summary of Rule: Within 30 calendar days after the recording of a board order, either party to an appeal may appeal to the superior court on one or more specific grounds.

Title: WAC 251-12-290 Superior court appeals—Preparation of record—Time limitations—Cost.

Summary of Rule: Within 30 calendar days after service of appeal to superior court, the board shall transmit to the court a certified record of the hearing.

Reasons Supporting Proposed Action: To eliminate the misconception that all cases can be directly appealed to superior court. These rule modifications should reduce the number of cases which are filed.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Higher Education Personnel Board, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: This change is not a result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 95 [119], filed 7/31/84)

WAC 251-12-080 APPEALS FROM DEMOTION, SUSPENSION, ((LAYOFF)) SALARY REDUCTION ((IN-SALARY, SEPARATION;)) DISMISSAL. Any permanent employee who is demoted, suspended, ((laid off;)) reduced in salary((, separated)) through disciplinary action or dismissed, may appeal such action. Appeals must be in writing and filed in the office of the director within thirty calendar days after the effective date of the action appealed.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 251-12-081 APPEALS FROM LAYOFF, SEPARATION. Any permanent employee who is laid off, or separated for disability, may appeal such action to the board. Such appeal must be in writing and filed in the office of the director within thirty calendar days after the effective date of the action appealed.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-250 FINDINGS OF FACT—CONCLUSIONS OF LAW—FILING PROCEDURE. Within thirty calendar days after the conclusion of the appeal hearing, the board shall make and fully record in its permanent records, findings of fact, conclusions of law, and its order, based thereon, which shall be final except for appeals filed pursuant to WAC 251-12-080 which are subject to action by the court on appeal as hereinafter provided((;)) in WAC 251-12-270. ((a)) At the same time a copy of the findings, conclusions and order shall be sent by registered mail to the employing institution and to the employee at his/her address as given at the hearing or to his/her counsel of record.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-270 SUPERIOR COURT APPEALS—GROUNDS—NOTICE REQUIREMENTS. (1) Within thirty calendar days after the recording of the order and the mailing thereof, either party to an appeal filed pursuant to WAC 251-12-080 may appeal to the superior court of the county in which the employing institution is located on one or more grounds that the order was:

(a) Founded on or contained error of law, which shall specifically include error in construction or application of any pertinent rules or regulations.

(b) Contrary to a preponderance of the evidence as disclosed by the entire record with respect to any specified finding or findings of fact.

(c) Materially affected by unlawful procedure.

(d) Based on violation of any constitutional provision.

(e) Arbitrary or capricious.

(2) Such grounds shall be stated in written notice of appeal filed with the superior court, with copies thereof served on the director or a member of the board and on the adverse party, all within the time stated.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-290 SUPERIOR COURT APPEALS—PREPARATION OF RECORD—TIME LIMITATIONS—COST. Within thirty calendar days after service of the notice of appeal to the superior court, as provided in WAC 251-12-270, or within such further time as the superior court may allow, the board shall transmit to the court a certified record, with exhibits, of the hearing; but by stipulation between the employing institution and the employee the record may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The superior court may require or permit subsequent corrections or additions to the record.

WSR 88-06-064 PROPOSED RULES DEPARTMENT OF WILDLIFE (Wildlife Commission) [Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission and Department of Wildlife intends to adopt, amend, or repeal rules concerning wildlife rehabilitation permits, adopting WAC 232-12-275;

that the agency will at 9:00 a.m., Thursday, April 7, 1988, in the Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7, 1988.

The authority under which these rules are proposed is RCW 77.12.030 and 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.030 and 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988
By: Jack L. Smith, Chief
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-275
Wildlife rehabilitation permits.

Statutory Authority: RCW 77.12.030 and 77.12.040.

Specific Statute that Rule is Intended to Implement:
 RCW 77.12.030 and 77.12.040.

Summary of the Rule: Provides for the issuance of wildlife rehabilitation permits to allow for qualified citizen-run wildlife rehabilitation facilities.

Reasons Supporting the Proposed Rule: Every year wildlife become injured, diseased or abandoned. There is strong public concern for this wildlife. This establishes rules and guidelines for the issuance of permits for private citizens to operate wildlife rehabilitation facilities.

Agency Personnel Responsible for Drafting and Implementation: Jack L. Smith, Chief, Wildlife Management Division, Department of Wildlife, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728; and **Enforcement:** Dan Wyckoff, Chief, Wildlife Enforcement Division, Department of Wildlife, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-12-275 WILDLIFE REHABILITATION PERMITS.

(1) It is unlawful to possess wildlife for the purpose of rehabilitation without first obtaining a Washington state "wildlife rehabilitation permit".

(2) A wildlife rehabilitation permit, valid for the time specified on the permit, may be issued to a person to treat or care for injured, diseased, or abandoned wildlife for the purpose of successful release to the wild.

(3) The director may issue and condition a wildlife rehabilitation permit if the applicant complies with the following:

(a) The applicant is either a licensed veterinarian or can demonstrate 6 months of experience in wildlife rehabilitation. The director may consider education in wildlife rehabilitation as a substitute for experience.

(b) The applicant must successfully complete a wildlife rehabilitator's examination(s) as prescribed by the director.

(c) Applicants who are not licensed veterinarians must provide to the department a letter signed by a person willing to act as principal veterinarian.

(d) The wildlife rehabilitation facility must meet the wildlife rehabilitation care standards and wildlife rehabilitation facility standards as prescribed by the director. Wildlife rehabilitation facilities permitted by the director prior to May 15, 1988 must meet the wildlife rehabilitation facility standards prescribed by the director or have a director approved plan for implementation on or before January 1, 1989.

(4) It is unlawful to hold wildlife for longer than 180 days except as authorized by the director.

(5) It is unlawful to publicly display wildlife while it is undergoing rehabilitation.

(6) It is unlawful to retain wildlife for the purpose of orphan-imprinting or to retain feathers of protected or endangered wildlife for the purpose of "imping", except as provided by written permission from the director.

(7) It is unlawful for wildlife being held for rehabilitation to be used for propagation.

(8) A wildlife rehabilitator may receive from the department and possess at the wildlife rehabilitation facility dead wildlife for the purpose of feeding wildlife being rehabilitated.

(9) It is unlawful for the holder of a wildlife rehabilitation permit to fail to submit to the department no later than January 31 of each year an annual report providing information as required by the director. The department will provide wildlife rehabilitators with a wildlife rehabilitation ledger which may also be submitted as the annual report.

(10) It is unlawful for a wildlife rehabilitation permit holder to fail to enter required information in the wildlife rehabilitation ledger on the day wildlife is received and on the day of all subsequent activities as required in the ledger.

(11) All permits and records held pursuant to statutes and rules dealing with wildlife rehabilitation will be kept on file at the wildlife rehabilitation facility. These records will be maintained on a calendar year basis and will be retained for a period of five years. A copy of the valid wildlife rehabilitation permit must be in the possession of any person possessing or transporting wildlife for the wildlife rehabilitation facility.

(12) Wildlife agents may inspect at reasonable times and in a reasonable manner the wildlife, permits, records, and wildlife rehabilitation facility of any wildlife rehabilitator.

(13) It is unlawful for a permittee to fail to comply with the conditions of a wildlife rehabilitation permit.

(14) For the purposes of this rule, the following definitions apply:

(a) "Wildlife rehabilitation" means the care and treatment of injured, diseased, or abandoned wildlife, including but not limited to capture, transporting, veterinary treatment, feeding, housing, exercise therapy, and any other treatment or training necessary for release back to the wild.

(b) "Wildlife rehabilitation facility" means the authorized site(s) as shown on the wildlife rehabilitation permit where the treatment and rehabilitation takes place.

(c) "Wildlife rehabilitator" means a person who cares for or treats injured, diseased, or abandoned wildlife for the purpose of releasing said wildlife to the wild.

(d) "Wildlife rehabilitation permit" means a permit issued by the director that authorizes a person to possess for treatment or care, injured, diseased, or abandoned wildlife for the purpose of successful release to the wild.

(e) "Principal veterinarian" means a licensed veterinarian who provides in writing their willingness to assist the rehabilitator in the medical treatment of injured, diseased, or abandoned wildlife.

(f) "Public display" means to place or locate wildlife so that it may be viewed by the public.

WSR 88-06-065 PROPOSED RULES DEPARTMENT OF WILDLIFE (Wildlife Commission) [Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Wildlife Commission intends to adopt, amend, or repeal rules concerning:

New WAC 232-28-810 1988 Mountain goat, sheep, moose, cougar, and lynx hunting seasons.

Rep WAC 232-28-809 1987 Mountain goat, sheep, and moose hunting seasons;

that the agency will at 9:00 a.m., Thursday, April 7, 1988, in the Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 7, 1988.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: February 26, 1988

By: Jack L. Smith, Chief
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of the Rule Section: WAC 232-28-810 1988 Mountain goat, sheep, moose, cougar and lynx hunting seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Adopts rules and regulations for 1988 Mountain goat, sheep, moose, cougar, and lynx hunting seasons.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Jack L. Smith, Chief, Wildlife Management Division, Department of Wildlife, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728; and Enforcement: Dan Wyckoff, Chief, Wildlife Enforcement, Department of Wildlife, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Wildlife.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-810 1988 MOUNTAIN GOAT, SHEEP, MOOSE, COUGAR, AND LYNX HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1988 Mountain goat, sheep, moose, cougar, and lynx hunting seasons proposed by the Department of Wildlife have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-809 1987 MOUNTAIN, GOAT, SHEEP, AND MOOSE HUNTING SEASONS

Reviser's note: Errors of punctuation in the above repealer occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 88-06-066

PROPOSED RULES

BOARD OF PILOTAGE COMMISSIONERS

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning licensing of pilots, WAC 296-116-080;

that the agency will at 9:00 a.m., Thursday, April 14, 1988, in the Colman Dock, Pier 52, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-01-097 filed with the code reviser's office on December 22, 1987.

Dated: March 2, 1988

By: Marjorie T. Smitsch
Assistant Attorney General

WSR 88-06-067

PROPOSED RULES

BOARD OF PILOTAGE COMMISSIONERS

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning examination review and appeal procedures, WAC 296-116-083;

that the agency will at 9:00 a.m., Thursday, April 14, 1988, in the Colman Dock, Pier 52, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988

By: Marjorie T. Smitsch
Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-083.

Statutory Authority: RCW 88.16.035.

Reason for New Regulation: Establishes the examination review and appeal procedures for the Washington state pilot's exam.

Implementation: This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposed: By the Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

NEW SECTION

WAC 296-116-083 EXAMINATION REVIEW AND APPEAL PROCEDURES. (1) Any candidate who takes the state examination for licensure and does not pass may request a review by the board of his or her examination results. This request must be in writing and must be received by the board within fifteen days of receipt of notification of the examination results. The board will not set aside its prior determination unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness by the board. The board will not consider any challenges to examination scores unless the total revised score could result in issuance of a license.

(2) The procedure for filing a review is as follows:

(a) Contact the board office for an appointment to appear personally to review incorrect answers on failed examination.

(b) Candidate will be provided a form to complete in the board office in defense of the examinee's examination answers.

(c) The candidate must state the specific reason or reasons why the candidate feels the results of the examination should be changed.

(d) Candidate will be identified only by candidate number for the purpose of this review. Letters of reference or requests for special consideration will not be read or considered by the board.

(e) Candidates may not bring in notes or texts for use while completing the informal review form.

(f) Candidates will not be allowed to take any notes or materials from the office upon leaving.

(g) The board will schedule a closed session meeting to review the examinations and forms completed by the candidate for the purpose of informal review.

(h) The candidates will be notified in writing of the results.

(3) Any candidate who is not satisfied with the result of the examination review may request a formal hearing pursuant to RCW 88.16-100. Such hearing must be requested within thirty days of receipt of the result of the board's review of the examination results.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988

By: Marjorie T. Smitsch
Assistant Attorney General

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-116-320 RETIREMENT FUND CONTRIBUTION.

WSR 88-06-069

PROPOSED RULES

BOARD OF PILOTAGE COMMISSIONERS

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning system of specified disciplinary or corrective actions, WAC 296-116-370;

that the agency will at 9:00 a.m., Thursday, April 14, 1988, in the Colman Dock, Pier 52, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988

By: Marjorie T. Smitsch
Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-370.

Statutory Authority: RCW 88.16.100.

Reason For New Regulation: In 1987 the legislature directed the board to implement a system of specified disciplinary or corrective actions when a pilot has received multiple disciplinary actions. This regulation outlines that system.

Implementation: This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposed: By the Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

Small Business Economic Impact Statement: None required.

NEW SECTION

WAC 296-116-370 SYSTEM OF SPECIFIED DISCIPLINARY OR CORRECTIVE ACTIONS. When a pilot has received multiple disciplinary actions (three or more) pursuant to RCW 88.16-.100 (1) and/or (2) within any five-year period, the board shall evaluate the pilot and order temporary suspension of the pilot from duties until such pilot has satisfactorily completed (1), (2), or (3) below.

- (1) Satisfactorily completed an approved course-of-study which includes navigation training and testing; or
- (2) Satisfactorily completed an approved alcohol or drug rehabilitation program; or
- (3) Completed any remedial activity designated by the board to assure fitness and competence for full pilotage duties.

In ordering such disciplinary action, the board shall take into account both the causes of the previous disciplinary actions and the pilot's previous record.

Failure to enter into such corrective action within thirty days of the board's action shall be cause for permanent revocation of the subject's license.

License reinstatement and resumption of pilotage duties shall not be authorized until the board has reviewed completed remedial activity and formally extended approval.

Small Business Economic Impact Statement: None Required.

NEW SECTION

WAC 296-116-420 SUMMARY LICENSE SUSPENSION. Summary suspension of a pilot's license may be made by the chairperson or vice-chairperson of the board of pilotage commissioners when:

- (1) A pilot has been involved in any vessel accident where there has been major property damage, loss of life, or loss of a vessel; or
- (2) Where there is a reasonable cause to believe that a pilot has diminished capacity or is under the influence of drugs, alcohol, or other substances; and

(3) Such an accident or physical or mental impairment would significantly diminish that pilot's ability to carry out pilotage duties and that the public health, safety, and welfare requires such emergency action. Notification of this suspension shall be made directly to the pilot and the appropriate pilot's association.

Within seventy-two hours an emergency board meeting will be held to determine whether to continue such suspension. In the event the suspension is continued pending proceedings for revocation or other action, an order shall be immediately prepared and notice shall be personally served upon the pilot advising of the board's action.

These further proceedings shall be promptly instituted in the office of administrative hearings.

All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston County or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision.

**WSR 88-06-070
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning summary license suspension, WAC 296-116-420;

that the agency will at 9:00 a.m., Thursday, April 14, 1988, in the Colman Dock, Pier 52, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 88.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988
By: Marjorie T. Smitch
Assistant Attorney General

STATEMENT OF PURPOSE

Rule: WAC 296-116-420.

Statutory Authority: RCW 88.16.100(5).

Reason for New Regulation: In 1987 the legislature gave the board the authority to summarily suspend a pilot's license under certain conditions. This proposed regulation establishes the procedures to be used by the board when making a summary license suspension.

Implementation: This rule will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, Washington 98104, (206) 464-7818.

Proposed: By the Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decision: None.

**WSR 88-06-071
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules relating to restricted use herbicides in chapters 16-230, 16-231 and 16-232 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 11, 1988.

The authority under which these rules are proposed is chapters 15.58 and 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Dated: March 2, 1988
By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapters 16-230, 16-231 and 16-232 WAC.

Description of Purpose: To restrict the use of phenoxy herbicides in certain counties of Eastern Washington.

Statutory Authority: Chapters 15.58 and 17.21 RCW.

Summary of Rules: Further restrict the use, distribution and application of phenoxy herbicides in certain counties of Eastern Washington.

Reasons for Supporting Proposed Rules: These sections were affected by recent adopted changes and basically are housekeeping in nature.

Personnel Responsible for Drafting, Implementing and Enforcing Rules: Glenn E. Smerdon, Ag Chemical Branch Supervisor, 406 General Administration Building, AX-41, Olympia, WA, phone (206) 753-5064.

Persons Proposing Rules: Washington State Department of Agriculture.

Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

NEW SECTION

WAC 16-230-475 RESTRICTED USE HERBICIDES—DISTRIBUTION, USE, AND APPLICATION. The distribution, use, and application of restricted use herbicides in counties east of the crest of the Cascade Mountains shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to restricted use herbicides in WAC 16-230-600 through 16-230-675.

AMENDATORY SECTION (Amending Order 1676, filed 2/20/80)

WAC 16-231-130 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—AREA 3. (1) Area 3 description. (Dry land area south and east of Connell.) An area beginning at the northeast corner of Section 3, T14N, R33E and the Reeder Road; thence south along the Reeder Road to and along the Black Road to the Swanson Road; thence east and south along the Swanson Road to state Highway 260; thence southerly along state Highway 260 to the Munt Road; thence south along the Munt Road to the Largent Road; thence east along the Largent Road to the Pasco-Kahlotus Highway to the Walker Road; thence southerly along the Walker Road to the Snake River; thence southerly along the Snake River to the east boundary line of Area 2; thence northerly along the east boundary line of Area 2 and Area 1A to the Franklin-Adams County line; thence east fifteen miles more or less along the county line to the point of beginning.

(2) Area 3 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides shall be prohibited on and after May 16 through October 31 of each year.

(b) On and after May 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.

(c) On and after May 1 through October 31, aircraft applications of restricted use herbicides shall be made using the caution area restrictions (see WAC 16-230-675).

AMENDATORY SECTION (Amending Order 1950, filed 9/1/87)

WAC 16-231-145 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 1A, 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Area 1 on and after April 1 through October 31 when the mean sustained wind velocity is over ten miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

NEW SECTION

WAC 16-231-950 RESTRICTED USE HERBICIDES—DISTRIBUTION, USE, AND APPLICATION. The distribution, use, and application of restricted use herbicides in counties east of the crest of the Cascade Mountains shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to restricted use herbicides in WAC 16-230-600 through 16-230-675.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-231-035 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-150 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-240 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-345 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-430 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-535 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-625 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-730 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-845 DISTRIBUTION, USE AND APPLICATION.
 WAC 16-231-940 DISTRIBUTION, USE AND APPLICATION.

AMENDATORY SECTION (Amending Order 1923, filed 4/6/87)

WAC 16-232-035 RESTRICTED USE HERBICIDES—WALLA WALLA COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 2, 2A ((and), 3, and 3A when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Areas 1 and 2 on and after April 1 through October 31 when the mean sustained wind velocity is over seven miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

NEW SECTION

WAC 16-232-950 RESTRICTED USE HERBICIDES—DISTRIBUTION, USE, AND APPLICATION. The distribution, use, and application of restricted use herbicides in counties east of the crest of the Cascade Mountains shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to restricted use herbicides in WAC 16-230-600 through 16-230-675.

REPEALER

The following sections of the Washington Administrative Code are repealed:

16-232-040 DISTRIBUTION, USE AND APPLICATION.
 16-232-130 DISTRIBUTION, USE AND APPLICATION.
 16-232-230 DISTRIBUTION, USE AND APPLICATION.
 16-232-320 DISTRIBUTION, USE AND APPLICATION.

WSR 88-06-072

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning the amendment of rules, definitions, and risk classification language contained in chapter 296-17 WAC applicable to workers' compensation insurance underwritten by the Washington state fund, Department of Labor and Industries, including the proposed establishment of three new risk classifications for the building

construction industry applicable to wallboard installation, garage door installation, and carpentry, N.O.C.; one new risk classification for fertilizer dealers and several new risk classifications for temporary service companies; repeal of a recreational boat building classification with boat building risk being reclassified to other existing risk classifications based on process and hazard; deletion of references in existing risk classifications for new proposals; minor wording changes in several existing risk classifications which are housekeeping in nature and do not affect the scope of the classification; and base rates and expected losses for the new risk classifications;

that the agency will at 10 a.m., Friday, April 15, 1988, in the General Administration Building, First Floor Conference Room, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 31, 1988.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is RCW 51.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 15, 1988.

The agency reserves the right to modify the text of these proposed rules prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing.

Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21 RCW.

Correspondence relating to this notice and proposed rules attached should be addressed to:

Alan D. Spadoni, Assistant Director
for Employer Services
Department of Labor and Industries
905 Plum Street S.E.
Olympia, Washington 98504

Dated: March 2, 1988
By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): The proposals for rule changes which follow amend portions of chapter 296-17 WAC. This title [chapter] pertains to the calculation, reporting, and collection of premiums for worker's compensation insurance coverage provided by the Department of Labor and Industries.

Statutory Authority: RCW 51.04.020 and 51.16.035.

Specific Statute that Rule is Intended to Implement: RCW 51.16.035.

Summary of the Rule(s): To make the following substantive change in Title 296 WAC: Establish three new risk classification definitions for the building construction industry applicable to wallboard installation work, garage or overhead door installation, and carpentry, N.O.C.; establish a new classification definition for fertilizer dealers; establish twelve new risk classification definitions for temporary service companies; repeal the

recreational boat building risk classification and reassign boat building risks to other existing classifications based on process and hazard; minor wording changes in several risk classification definitions which are housekeeping in nature and do not change the scope of the classification definition; removal of references in existing risk classification definitions for new proposals; and base rates and expected losses for the new risk classifications.

Reasons Supporting Changes: Revisions and/or amendments to existing rules and the establishment of new rules are intended to extend uniform treatment and equity to all affected employers. The changes being proposed are reflective of recognized workers' compensation insurance practices.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s): R. L. McCallister, Deputy Director for Industrial Insurance, 753-5173; Alan D. Spadoni, Assistant Director for Employer Services, 753-5371; and Francis A. Romero, Manager, Classification Development, 753-1434.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule(s): State of Washington, Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule(s): None.

These rules are not proposed to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: This statement pertains to revisions to chapter 296-17 WAC proposed by the Department of Labor and Industries, to become effective permanently on July 1, 1988, and is prepared to conform with section 3(2) and section 4 of the Regulatory Fairness Act (chapter 6, Laws of 1982).

Existing Rules: Chapter 296-17 WAC presently defines approximately 272 risk classifications for purposes of reporting exposures and computing premiums for workers' compensation insurance as well as rules governing the application of these risk classifications to businesses or occupations, provisions for an experience rating plan, insurance base rates applicable to each risk classification, and rules governing the reporting of worker hours and the assessment of penalties for employers who fail to register or file late payroll reports.

Treatment of Small Business Under Existing Rules: Risk classification definitions are keyed to the nature of an employer's business operations within this state and in certain cases individual employments, and are independent of business size. Once the number of risk classifications statistically supportable has been determined and the risks defined, base rates are developed for each risk classification. All new employers conducting like businesses are assigned into a common classification pool representative of their business undertaking and are assigned the same base rate. As experience is developed by each employer, a modified rate as provided for in the experience rating plan is calculated. Those employers with a favorable past experience receive rate reductions

while those employers with unfavorable past experience receive rate increases. Within the experience rating plan, small employers with a loss-free record during the experience rating period are allowed rate credits in excess of those initially computed by the rating plan based on risk size, by imposing a maximum modification for loss-free firms of various sizes in WAC 296-17-890.

Effect of Proposed Revisions: Three new risk classifications are being proposed for the building construction industry applicable to wallboard installation, garage door installation, and carpentry, N.O.C.; one new risk classification for fertilizer dealers and several new risk classifications for temporary service companies; repeal of the recreational boat building classification with boat building risks being reclassified to other existing risk classifications based on process and hazard; deletion of references in existing risk classifications for new proposals; minor wording changes in several existing rule classifications which are housekeeping in nature and do not affect the scope of the classification; and base rates and expected losses for the new classifications. Changes being proposed are at the request of industry and were developed with the assistance of the affected business.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-310 GENERAL RULES AND INSTRUCTIONS. This section constitutes general rules and instructions for chapter 296-17 WAC.

(1) **Purposes.** This chapter of the Washington Administrative Code, including classifications of risk, premium rates, the experience rating plan, and all other rules contained herein governing the use thereof, is herein referred to as the manual. This manual is promulgated by the department of labor and industries pursuant to RCW 51.16.035. This manual contains a formulation of the rules and regulations providing for basic classifications, rates of premium, method of premium calculation and collection, and a rating system, consistent with recognized principles of workers' compensation insurance. This manual governs the department's underwriting of workers' compensation insurance and assessment of other monetary obligations, under the industrial insurance law of the state of Washington, Title 51 RCW.

(2) **Overview.** Washington law (RCW 51.16.035) requires that the department of labor and industries classify all occupations or industries by degree of hazard. To accomplish this, the department has established approximately two hundred seventy basic classifications of risk embracing the various industries within the state (the actual number may vary from year to year). These basic classifications are set forth in WAC 296-17-501 through 296-17-779. The general principles and objectives of the basic classification system are set forth in WAC 296-17-310.

The first step in determining the appropriate classification for an employer is to determine the nature of the employer's business being insured in this state. If the department determines that an employer's business consists of a single operation or a number of separate operations which normally prevail in that business then the single enterprise rule (WAC 296-17-380) is applicable. This rule provides that the department is to assign the single basic classification which most accurately describes the employer's entire enterprise. This process begins with the search for a basic classification which specifically describes the employer's business. If such a basic classification is found the process of assigning a basic classification is complete.

If the employers' business operation is not specifically described by any basic classification then the employer's business is to be classified as provided for in WAC 296-17-360 (assignment of classification by analogy). In classifying by analogy the department examines the process and hazard of the employer's business and compares it to that of other basic classifications with processes and hazards that are similar to those of the employer's business and assigns the most analogous classification on that basis.

In the event that a review of the employer's business operations indicates the possibility that the employer conducts more than one business within this state, a determination will be made as to whether any additional basic classifications should be assigned on the basis of the criteria set out in the multiple enterprise rule (WAC 296-17-390).

Once the employer's basic classification has been established, the department must determine whether additional classifications should be assigned to apply to specific employments within an employer's business such as the standard exception rule (WAC 296-17-440), the general exclusion rule (WAC 296-17-430), the special exception rule (WAC 296-17-441), or those indicated by the language of any applicable basic classifications that permit or require separate reporting of any operations within that business or industry or as otherwise provided by this chapter.

(3) **Premium payments – quarterly reports.** Each employer shall, upon such forms as prescribed by the department, prior to the last day of January, April, July and October of each year, pay to the department for the preceding calendar quarter, for the accident fund, and for the medical aid fund, a certain number of cents for each worker hour or fraction thereof worked by the worker in their employ except when the rules of this manual provide for a different method of premium computation. Provided, that in the event an employer has no employment subject to coverage under Title 51 RCW during a calendar quarter the employer shall submit to the department, according to the schedule described above, a quarterly report indicating "no payroll" or be subject to the penalties provided for in RCW 51.48.030. The director may promulgate, change and revise such rates at such times as necessary, according to the condition of the accident and medical aid funds, and assign rates as appropriate to employers who voluntarily seek coverage under the elective adoption provisions of the law.

(4) **Determining accident fund premium.** The amounts to be paid into the accident fund shall be determined as follows: The department shall determine a manual premium rate for each classification which shall not be inadequate, excessive or unfairly discriminatory, taking into consideration past and prospective costs in each classification and the financial condition of the accident fund as a whole.

Every employer shall pay into the accident fund at the manual premium rate unless such employer meets the requirements for the experience rating plan provided elsewhere in this manual, in which event such employer's premium rate for the accident fund shall be paid according to their experience modification as determined under the experience rating plan.

(5) **Basis for determining medical aid premium.** The amounts to be paid into the medical aid fund shall be determined as follows: The department shall determine a basic medical aid rate for each classification which shall not be inadequate, excessive or unfairly discriminatory, taking into consideration past and prospective costs in each classification and the financial condition of the medical aid fund as a whole.

Every employer shall pay into the medical aid fund at the basic premium rate only, and the experience rating plan shall not apply to medical aid rates.

(6) **All section captions or titles or catch lines used in this manual, chapter 296-17 WAC, do not constitute any part of these rules.**

(7) **Assignment of classifications.** The classifications in this manual are all basic classifications other than the standard exception classifications which are defined in WAC 296-17-440. Basic classifications are used to implement the object of the classification system, which is to assign the one basic classification which best describes the business of the employer within this state. Each basic classification includes all the various types of labor found in a business unless it is specifically excluded by language contained within the classification or covered by a separate rule found elsewhere in this chapter, such as "standard exceptions" or "general exclusions." The classification procedure used within this state is intended to classify the business undertaking of the employer and not the separate employments, occupations, or operations of individuals within a business.

In the event an employer operates a secondary business within this state, multiple basic classifications can be assigned provided that the conditions set forth in WAC 296-17-390 "multiple enterprises" have been met. However, construction or erection operations are to be assigned classifications as provided in subsection (8) of this section.

(8) **Construction or erection operations.** Each distinct type of construction or erection operation at a job site or location shall be assigned to the basic classification describing that operation provided separate payroll records are maintained for each operation.

In the event separate payroll records are not maintained the entire number of worker hours for such operations shall be assigned to the

highest rated classification which applies to the job site or location where the operation is performed.

Separate construction or erection classifications shall not be assigned to any operation which is within the scope of another basic classification assigned to such a job site or location.

(9) Classification assignment of separate legal entities. Each separate legal entity shall be assigned to the basic classification or classifications which best describe its operations within the state using the classification procedures outlined in subsections (2), (7), and (8) of this section.

(10) All operations. Each basic classification in this manual, other than classifications 4806, 4904, 5206, 6301, 6302, 6303, 7101, or the temporary help classifications 7104 through ((7109)) 7121, include all the operations normally associated with the business undertaking without regard to the location(s) of such operation(s) unless an operation is specifically excluded from the manual language of the basic classification.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-450 SPECIAL AGRICULTURAL CLASSIFICATION INTERPRETATIONS. Farming in classifications 4802 through 4806, 4808, 4809, 4810, 4811, 7301, 7302, and 7307 will include farm labor by contractors and farm machinery operations by contractors.

To qualify for ((x)) separate ratings ((of ground hand-picking or any other separation of agricultural)) (classifications), separate and distinct payroll records of each such operation((s)) will be required.

If a single establishment or work comprises more than one of classifications 4802 through 4806, 4808, 4809, 4810, 4811, 7301, 7302, and 7307 the premiums shall be computed according to the payroll ((for operations)) of each classification provided distinct payroll records have been kept for each such operation, otherwise, the operation will be assigned to the highest rated classification representing any portion of the work being performed. The department in its discretion may assess a single rate of premium for an agricultural establishment when a substantial portion of the operation falls within one classification, and in such cases, the entire operation will be required to be reported in such largest classification: PROVIDED, That under no circumstance((s)) will the hand-picking classification (4806) apply for the purpose of single rating ((of)) an entire establishment engaged in other phases of agricultural activities. Provided further, that farm labor contractors shall be assigned the classification(s) applicable to the agricultural establishment for whom they are providing services.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-455 SPECIAL TEMPORARY HELP CLASSIFICATION INTERPRETATION. For the purposes of administering the temporary help classifications 7104 through ((7109)) 7121, the term "temporary help" shall be given the same meaning as temporary service contractors defined in RCW 19.31.020(2) and shall mean any person, firm, association or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-519 CLASSIFICATION 0504.

Wallboard taping and texturing, excluding wallboard installation rated under risk classification ((0505 (WAC 296-17-520))) 0515 (WAC 296-17-52107)

Painting bridges, including incidental preparation work

Painting, decorating or paperhanging, N.O.C., including incidental preparation, including shop

Waterproofing, N.O.C. excludes roofing or subaqueous work

Painting, coating or cleaning oil or gas storage tanks and beer vats

Painting towers, smokestacks and steel or iron structures.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-520 CLASSIFICATION 0505.

Construction, alteration, or repair of buildings, N.O.C.: Concrete, iron, or steel

Gutters: Installation, service or repair – on structures
((Wallboard installation))

Plastering, stuccoing, and lathing, N.O.C.

((Door, door frame, sash, overhead door, siding installation, framing and carpentry, N.O.C.))

Elevator door bucks – installation

Mobile home set up including installation of skirting and awnings by contractor. Excludes mobile home set up by mobile home dealers reported under risk classification 3401

Fire escapes and awnings: Installation, alteration, repair, or removal – building exteriors

Decorative metal shutters: Installation, repair or removal – no bunting

Scaffolds, hoist hoists, concrete and cement distributing towers, side-

walk bridges and construction elevators – installation or removal

Debris cleaning and removal.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-52102 CLASSIFICATION 0510.

Wood frame building construction, alteration, or repair, N.O.C.

For the purposes of this rule wood frame building construction means buildings erected exclusively of wood or wood products.

This classification includes all building framing activities done in connection with wood frame building construction including the placement of roof trusses, sheathing roofs, installation of exterior building siding, and installation of exterior doors and door frames whether performed by a general or specialty contractor.

NEW SECTION

WAC 296-17-52106 CLASSIFICATION 0514.

Garage or overhead door installation including automatic door openers when installed with a garage or overhead door.

NEW SECTION

WAC 296-17-52107 CLASSIFICATION 0515.

Wallboard installation

This classification excludes taping and texturing work which is to be reported separately in risk classification 0504 "wallboard taping and texturing."

NEW SECTION

WAC 296-17-52108 CLASSIFICATION 0516.

Carpentry, N.O.C.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-52701 CLASSIFICATION 0608.

Business machine and((;)) computer mini and mainframe systems((;)); Report the installation of personal desk top computer systems separately in risk classification 4107.

Electrical alarm systems including smoke alarms

Intercom or audio call box

Telecommunication and PBX or similar equipment

Telephone service prewire by contractor

This classification includes installation, service or repair of the above types of equipment and includes all shop or yard operations.

AMENDATORY SECTION (Amending Order 86-18, filed 5/30/86, effective 7/1/86)

WAC 296-17-536 CLASSIFICATION 1101.

((Anhydrous ammonia delivery))

Armoured car service

Automobile delivery drive away, automobile repossession

Computer tape/accounting records delivery service

Delivery by retail, wholesale, combined wholesale and retail stores and

distributors, N.O.C.

Delivery companies, deliver parcels and packages, no bulk merchandise

Distribution of sample merchandise by vehicle

Driver delivery sales, N.O.C.

Drivers of sound trucks

News agents or distributors of magazines, periodicals and telephone books, no retail dealer
 Route food services, excludes food preparation to be reported under risk classification 3905 (WAC 296-17-618)
 Septic tank and cesspool cleaning, excludes installation or repair
 Street sweeping, parking lot sweeping, portable chemical toilets servicing
 Street vending vehicles.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-552 CLASSIFICATION 1801.

((Smelting, sintering or refining lead, manufacturing calcium carbide
 Blast furnace operation
 Rolling mills steel or iron, rolling mills, N.O.C.
 Lead works - sheet, tinfoil manufacturing
 Lead manufacturing - red or white
 Smelting, sintering or refining ores, N.O.C.)) Blast furnace operation
 Lead manufacturing - red or white
 Lead works - sheet, tinfoil manufacturing
 Recovering, refining, or reprocessing metals
 Rolling mills steel or iron, rolling mills, N.O.C.
 Smelting, sintering or refining lead, manufacturing calcium carbide
 Smelting, sintering or refining ores, N.O.C.)

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-563 CLASSIFICATION 2102.

((Anhydrous ammonia, fertilizer and agricultural chemical dealers:
 Drivers will be separately rated under risk classification 1101 (WAC 296-17-536) anhydrous ammonia delivery))
 Grocery, fruit or produce distributors, wholesale or combined wholesale and retail. Drivers will be separately rated under risk classification 1101 (WAC 296-17-536) delivery by combined wholesale and retail stores
 Recycle, collection and receiving stations, and dealers of rags, bottles, paper and metal containers, N.O.C., no junk dealers. Drivers will be separately rated under risk classification 1102 (WAC 296-17-537) trucking, N.O.C.
 Warehouses - general merchandise. Wholesale dealers to be separately rated. Drivers will be separately rated under risk classification 1102 (WAC 296-17-537) trucking, N.O.C.
 Wool or cotton merchants. Drivers will be separately rated under risk classification 1102 (WAC 296-17-537) trucking, N.O.C.)

NEW SECTION

WAC 296-17-56402 CLASSIFICATION 2106.

Anhydrous ammonia, fertilizer, and agricultural chemical dealers including mixing of chemicals.
 This classification does not apply to the production of raw materials for use in the manufacture of the above products.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-567 CLASSIFICATION 2401.

Paper or pulp manufacturing, wood fibre manufacturing
 Corrugated and fibre board container manufacturing, including corrugating and laminating of paper
 Paper coating, corrugating, laminating or oiling
 Paper goods, N.O.C., manufacturing
 Building and roofing paper ((or felt preparation,)) including felt, manufacturing.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-580 CLASSIFICATION 3402.

Abrasive wheel manufacturing
 Air compressor manufacturing or assembly, elevator manufacturing, gear grinding or manufacturing
 Automobile((;)) or truck, ((tractor)) radiator and heater core manufacturing and repair shops

Auto body manufacturing - truck, trailer, bus body manufacturing, travel trailer body repair
 Auto or motorcycle manufacturing or assembly
 Auto or truck engine manufacturing, aircraft engine manufacturing or rebuild, N.O.C.
 Auto or truck parts, machining or rebuild not in vehicle
 Battery manufacturing or assembly including repair
 Bed spring or wire mattress manufacturing
 Confectioners machinery manufacturing or assembly, food processing machinery manufacturing or assembly, precision machined parts, N.O.C., manufacturing
 Coppersmithing, shop
 Furnace, heater or radiator manufacturing
 Heat treating metal
 Lead burning, metal spraying - copper
 Machinery manufacturing or assembly, N.O.C.
 Machine shops, N.O.C., including mobile shops, tool sharpening and marine engine repair
 Nut, bolt, screw, nail, tack, rivet, eyelet, spike and needle manufacturing, N.O.C.
 Office machinery manufacturing or assembly, N.O.C., cash register and sewing machine manufacturing or assembly
 Photo processing machinery manufacturing or assembly
 Power saw, lawn and garden equipment and small motor repair, N.O.C.
 Printing or bookbinding machinery manufacturing or assembly
 Pump manufacturing or assembly, safe manufacturing or assembly, scale manufacturing or assembly including repair, auto jack manufacturing or assembly, water meter manufacturing or assembly including repair
 Saw manufacturing or assembly
 Sewing machine, commercial - repair and rebuild
 Shoe machinery manufacturing or assembly, sprinkler head manufacturing or assembly, textile machinery manufacturing or assembly
 Small arms, speedometer and carburetor manufacturing or assembly including rebuild
 Tool manufacturing, machine finishing
 Tool manufacturing, not hot forming or stamping, die manufacturing - ferrous
 Valve manufacturing
 Welding or cutting, N.O.C. including mobile operations
 This is a shop or plant only classification but does contemplate work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Unless outside activities are specifically provided for they are to be separately rated
 This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations rated within this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-582 CLASSIFICATION 3404.

Aluminum ware manufacturing - from sheet aluminum
 Auto or truck parts manufacturing or assembly N.O.C. - miscellaneous stamped parts
 Awning manufacturing or assembly - metal
 Brass or copper goods manufacturing
 Cans manufacturing - aluminum or galvanized
 Coffin-casket manufacturing or assembly, other than wood
 Electric or gas lighting fixtures, lampshades or lantern manufacturing or assembly - metal
 Furniture, ((bedstead,)) shower-door, showcases - not wood - manufacturing or assembly
 Galvanized iron works, manufacturing - not structural
 Hardware manufacturing, N.O.C.
 Metal goods manufacturing, N.O.C., from material lighter than 9 gauge
 Metal stamping, including plating and polishing
 Sign manufacturing - metal
 Ski manufacturing and toboggan manufacturing other than wood
 Stove manufacturing, excluding wood stove manufacturing and other stoves made from material 9 gauge or heavier rated under risk classification 5209 (WAC 296-17-67602)
 Water heater manufacturing or assembly
 Window, sash or door manufacturing or assembly - aluminum

Physically separate upholstery departments of firms engaged in furniture, coffin or casket manufacturing, assembly, or finishing may be separately rated under risk classification 3808 (WAC 296-17-612), and in accordance with WAC 296-17-410.

This is a shop or plant only classification but does contemplate work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Unless outside activities are specifically provided for they are to be separately rated.

This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations rated in this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-594 CLASSIFICATION 3602.

Camera manufacturing or assembly including repair in shop

Dental laboratories

((Electric)) Electric cordset radio and ignition assembly

Electronic circuit board assembly, N.O.C.

Electronic products manufacturing; resistors, capacitors, chip and relays manufacturing

Fishing tackle manufacturing, N.O.C., including assembly

Incandescent lamp manufacturing, electric tube or transistor manufacturing

Instrument manufacturing, scientific, medical or professional

Jewelry manufacturing or engraving

Magnetic tape manufacturing

Motion picture projectors manufacturing or assembly including repair in shop

Silverware manufacturing, watch case manufacturing

Sound recording equipment, thermometer and steam gauge manufacturing

Stereo components manufacturing or assembly

Tag, button, zipper or fastener manufacturing, bottle cap manufacturing

Telegraph or radio apparatus manufacturing, N.O.C.

Telephone set manufacturing or repair, N.O.C.

Trophy engraving

Watch manufacturing

This is a shop or plant only classification although the classification allows for repair work when specified it is contemplated that such repairs are limited to those brought into the shop by the customer or sent through a common carrier. This classification excludes all outside repair work.

This classification does not apply to the production of raw material for use in the manufacturing of the above articles.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-630 CLASSIFICATION 4301.

((Fertilizer manufacturing))

Glue manufacturing

Lard making or refining

Meat products manufacturing, including canning or dehydrating

Packing house – including butchering and handling livestock

Peat moss shredding and baling

Rendering works, N.O.C.

Sausage casings, wholesale dealer

Sausage manufacturing

Slaughter houses

Tallow making

Tanneries, fur manufacturing.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-643 CLASSIFICATION 4802.

Berry farms

Bulb raising

Field vegetable crops, such as bush beans, peas, sweet corn, potatoes, sugar beets, and field carrots which are mechanically harvested

Flower seed growing including harvesting of seeds

Picking of forest products, N.O.C.

((Vegetable crops, such as bush beans, peas, sweet corn, potatoes, sugar beets, and field carrots which are mechanically harvested.))

Vineyards including harvesting of fruit

This classification excludes fresh fruit packing operations rated under risk classification 2104 (WAC 296-17-564); and fruit cannery or freezer operations rated under risk classification 3902 (WAC 296-17-615) unless specifically included by manual language.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-64901 CLASSIFICATION 4809.

Greenhouses, N.O.C.

Flowers – field growing, excluding bulb raising rated in risk classification 4802 (WAC 296-17-643)

Mushroom raising and harvesting

Sprouts raising and harvesting

This classification excludes fresh vegetable packing operations rated under risk classification 2104 (WAC 296-17-564); and vegetable cannery or freezer operations rated under risk classification 3902 (WAC 296-17-615).

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-64902 CLASSIFICATION 4810.

Farms – field vegetables, N.O.C. including truck gardening for fresh market. This classification includes all ground preparation, growing husbandry and hand harvesting with the aid of a hand held cutting device such as a paring or cutting knife used in the harvest of broccoli or cauliflower and by hand alone as in the case of cucumbers.

Separately report ground preparation, growing and harvesting of vegetable crops such as bush beans, peas, sweet corn, potatoes and field carrots which are mechanically harvested in risk classification 4802 (WAC 296-17-643) ((();))) "farms((();))" "Vegetables – mechanically harvested"; fresh vegetable packing operations reported separately under risk classification 2104 (WAC 296-17-564); and vegetable cannery or freezer operations reported separately under risk classification 3902 (WAC 296-17-615).

AMENDATORY SECTION (Amending Order 86-18, filed 5/30/86, effective 7/1/86)

WAC 296-17-677 CLASSIFICATION 5301.

Accounting or bookkeeping firms

Computer software or word processing services

Court reporting firms

Credit bureaus

Employment agencies

Law firms

Management analyst or consulting firms, N.O.C.

Secretarial or telephone answering services

((Temporary help agencies – administrative offices only))

Travel agencies

This classification includes clerical office and sales personnel

Use of this classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operation to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-680 CLASSIFICATION 6103.

Athletic officials for amateur sports, N.O.C., such as umpires and referees

Churches

Day nurseries or child care centers

Libraries, N.O.C.

Museums, N.O.C.

Schools, N.O.C. including dance, modeling, music and flight instructions classroom only

Schools: Academic K-12

Schools, trade or vocational

Use of this classification is limited to clerical office, sales personnel and white collar professional employees

See risk classification 6104 (WAC 296-17-681) for other operations.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)**WAC 296-17-736 CLASSIFICATION 6705.**

((Athletic officials for amateur sports, N.O.C., such as umpires, and referees))

Excursions – outdoor recreational N.O.C., includes river rides, pack trains, hiking and mountaineering, and including camping operations incidental thereto

Ski facilities – includes all operations incidental to the operation of the skiing facility such as ski tows parking lots but excludes food service operations, hotel or motel operations, ski rental or ski sales shops

Ski instructors and ski patrols

Wind sail board instructors.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)**WAC 296-17-757 CLASSIFICATION 7104.**

((Temporary help companies

This classification applies to employees of temporary help companies, N.O.C., that are referred on a temporary basis to its customers. This classification applies if the customer's business is by nature enumerated in this manual as being subject to any of the following risk classifications: 1304 (WAC 296-17-541), 4901 (WAC 296-17-650), 4902 (WAC 296-17-651), 4903 (WAC 296-17-652), 4904 (WAC 296-17-653), 4906 (WAC 296-17-655), 5301 (WAC 296-17-677), 5305 (WAC 296-17-678), 5306 (WAC 296-17-679), 6103 (WAC 296-17-680), 6109 (WAC 296-17-686), 6303 (WAC 296-17-698), 6501 (WAC 296-17-714), 6502 (WAC 296-17-715), 6506 (WAC 296-17-719), 7202 (WAC 296-17-764).)) Temporary help company: Office support services.

This classification applies only to those employees of the temporary help company assigned to work in the administrative or branch offices of a temporary help company. It does not apply to employees of a temporary help company assigned to a customer's administrative or clerical office. This classification is also applicable to an employment agency's administrative office when conducted in connection with a temporary help company operation.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)**WAC 296-17-758 CLASSIFICATION 7105.**

((Temporary help companies

This classification applies to employees of temporary help companies, N.O.C., that are referred on a temporary basis to its customers. This classification applies if the customer's business is by nature enumerated in this manual as being subject to any of the following risk classifications: 1007 (WAC 296-17-53504), 1106 (WAC 296-17-53803), 1303 (WAC 296-17-540), 2201 (WAC 296-17-565), 2202 (WAC 296-17-566), 2203 (WAC 296-17-56601), 3403 (WAC 296-17-581), 3405 (WAC 296-17-58201), 3406 (WAC 296-17-583), 3408 (WAC 296-17-585), 3409 (WAC 296-17-58501), 3602 (WAC 296-17-594), 3701 (WAC 296-17-599), 3707 (WAC 296-17-603), 3708 (WAC 296-17-604), 3801 (WAC 296-17-605), 3802 (WAC 296-17-606), 3808 (WAC 296-17-612), 3905 (WAC 296-17-618), 3909 (WAC 296-17-61804), 4101 (WAC 296-17-620), 4103 (WAC 296-17-622), 4107 (WAC 296-17-626), 4108 (WAC 296-17-627), 4109 (WAC 296-17-628), 4501 (WAC 296-17-637), 4502 (WAC 296-17-638), 4503 (WAC 296-17-639), 4504 (WAC 296-17-640), 4905 (WAC 296-17-654), 5207 (WAC 296-17-676), 6105 (WAC 296-17-682), 6107 (WAC 296-17-684), 6201 (WAC 296-17-687), 6203 (WAC 296-17-689), 6204 (WAC 296-17-690), 6205 (WAC 296-17-691), 6206 (WAC 296-17-692), 6209 (WAC 296-17-695), 6301 (WAC 296-17-696), 6302 (WAC 296-17-697), 6304 (WAC 296-17-699), 6305 (WAC 296-17-700), 6306 (WAC 296-17-701), 6308 (WAC 296-17-703), 6309 (WAC 296-17-704), 6402 (WAC 296-17-706), 6403 (WAC 296-17-707), 6404 (WAC 296-17-708), 6405 (WAC 296-17-709), 6406 (WAC 296-17-710), 6407 (WAC 296-17-711),

6503 (WAC 296-17-716), 6504 (WAC 296-17-717), 6505 (WAC 296-17-718), 6508 (WAC 296-17-721), 6509 (WAC 296-17-722), 6601 (WAC 296-17-723), 6603 (WAC 296-17-725), 6604 (WAC 296-17-726), 6605 (WAC 296-17-727), 6607 (WAC 296-17-729), 6704 (WAC 296-17-735), 6709 (WAC 296-17-740), 6909 (WAC 296-17-7501), 7308 (WAC 296-17-778).)) Temporary help company: Office support services.

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged wholly in office work for such customers. This classification would include occupations such as clerks, typists, receptionists, secretaries, accountants, bookkeepers, word processors, data entry and computer operators, programmers, drafters, designers, technical writers, technical illustrators, design engineers, telemarketers, and dispatchers. Employees subject to this classification are not required to physically be located in a clerical office. The test is whether or not they perform clerical office work as described in this classification. A division of worker hours is not permitted between this classification.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)**WAC 296-17-759 CLASSIFICATION 7106.**

((Temporary help companies

This classification applies to employees of temporary help companies, N.O.C., that are referred on a temporary basis to its customers. This classification applies if the customer's business is by nature enumerated in this manual as being subject to any of the following risk classifications: 0301 (WAC 296-17-510), 0803 (WAC 296-17-529), 1103 (WAC 296-17-538), 1104 (WAC 296-17-53801), 1301 (WAC 296-17-539), 1404 (WAC 296-17-544), 1405 (WAC 296-17-54401), 1501 (WAC 296-17-545), 1507 (WAC 296-17-546), 2002 (WAC 296-17-555), 2003 (WAC 296-17-556), 2004 (WAC 296-17-557), 2005 (WAC 296-17-558), 2007 (WAC 296-17-560), 2008 (WAC 296-17-561), 2101 (WAC 296-17-562), 2102 (WAC 296-17-563), 2104 (WAC 296-17-564), 3309 (WAC 296-17-578), 3401 (WAC 296-17-579), 3407 (WAC 296-17-584), 3501 (WAC 296-17-586), 3503 (WAC 296-17-587), 3508 (WAC 296-17-592), 3702 (WAC 296-17-600), 3901 (WAC 296-17-614), 3906 (WAC 296-17-61801), 4401 (WAC 296-17-635), 4404 (WAC 296-17-636), 4802 (WAC 296-17-643), 4803 (WAC 296-17-644), 4804 (WAC 296-17-645), 4805 (WAC 296-17-646), 4806 (WAC 296-17-647), 4808 (WAC 296-17-649), 4809 (WAC 296-17-64901), 4810 (WAC 296-17-64902), 4811 (WAC 296-17-64903), 4812 (WAC 296-17-64904), 5307 (WAC 296-17-67901), 6104 (WAC 296-17-681), 6108 (WAC 296-17-685), 6202 (WAC 296-17-688), 6208 (WAC 296-17-694), 6408 (WAC 296-17-712), 6409 (WAC 296-17-713), 6602 (WAC 296-17-724), 6608 (WAC 296-17-730), 6706 (WAC 296-17-737), 6801 (WAC 296-17-741), 6802 (WAC 296-17-742), 6804 (WAC 296-17-744), 6908 (WAC 296-17-753), 7201 (WAC 296-17-763), 7301 (WAC 296-17-772), 7302 (WAC 296-17-773), 7307 (WAC 296-17-777).)) Temporary help company: Retail or wholesale store services.

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged in activities such as cashiering, stocking, product demonstration, booth aids, modeling, outside sales, and inventory taking.

For the purposes of this section, inventory taking is limited to those services provided to store operations which are performed exclusively at ground level. Inventory taking utilizing ladders, step stools, or at any height or when performed for customers not engaged in store operations are to be reported separately in risk classification 7114 provided they do not operate equipment or machinery.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)**WAC 296-17-760 CLASSIFICATION 7107.**

((Temporary help companies

This classification applies to employees of temporary help companies, N.O.C., that are referred on a temporary basis to its customers. This classification applies if the customer's business is by nature enumerated in this manual as being subject to any of the following risk classifications: 0306 (WAC 296-17-512), 0307 (WAC 296-17-513), 0503 (WAC 296-17-518), 0601 (WAC 296-17-522), 0602 (WAC 296-17-523), 0603 (WAC 296-17-524), 0606 (WAC 296-17-526), 0607 (WAC 296-17-527), 0608 (WAC 296-17-52701),

~~1108 (WAC 296-17-53805), 1401 (WAC 296-17-542), 1801 (WAC 296-17-552), 2401 (WAC 296-17-567), 2903 (WAC 296-17-568), 2904 (WAC 296-17-569), 2905 (WAC 296-17-56901), 2906 (WAC 296-17-570), 2907 (WAC 296-17-57001), 2908 (WAC 296-17-57002), 2909 (WAC 296-17-57003), 3101 (WAC 296-17-571), 3102 (WAC 296-17-572), 3103 (WAC 296-17-573), 3104 (WAC 296-17-574), 3105 (WAC 296-17-575), 3301 (WAC 296-17-576), 3302 (WAC 296-17-57601), 3303 (WAC 296-17-57602), 3402 (WAC 296-17-580), 3404 (WAC 296-17-582), 3603 (WAC 296-17-595), 3604 (WAC 296-17-596), 3605 (WAC 296-17-597), 3606 (WAC 296-17-598), 3902 (WAC 296-17-615), 3903 (WAC 296-17-616), 4002 (WAC 296-17-619), 4201 (WAC 296-17-629), 4301 (WAC 296-17-630), 4302 (WAC 296-17-631), 4303 (WAC 296-17-632), 4304 (WAC 296-17-633), 4402 (WAC 296-17-63501), 4601 (WAC 296-17-641), 5101 (WAC 296-17-661), 5102 (WAC 296-17-662), 5103 (WAC 296-17-663), 5105 (WAC 296-17-665), 5106 (WAC 296-17-666), 5107 (WAC 296-17-667), 5108 (WAC 296-17-668), 5109 (WAC 296-17-669), 5201 (WAC 296-17-670), 5202 (WAC 296-17-671), 5203 (WAC 296-17-672), 5204 (WAC 296-17-673), 5208 (WAC 296-17-67601), 5209 (WAC 296-17-67602), 6705 (WAC 296-17-736).))~~ **Temporary help company: Bakery, restaurant, or food sundry preparation services.**

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged in activities such as baking, cooking, food preparation, waiting and busing tables, and dishwashing.

AMENDATORY SECTION (Amending Order 87-12, filed 5/29/87, effective 7/1/87)

WAC 296-17-761 CLASSIFICATION 7108.

((**Temporary help companies**

This classification applies to employees of temporary help companies, N.O.C., that are referred on a temporary basis to its customers. This classification applies if the customer's business is by nature enumerated in this manual as being subject to any of the following risk classifications: 0101 (WAC 296-17-501), 0102 (WAC 296-17-502), 0103 (WAC 296-17-503), 0104 (WAC 296-17-504), 0105 (WAC 296-17-505), 0106 (WAC 296-17-506), 0107 (WAC 296-17-50601), 0108 (WAC 296-17-50602), 0109 (WAC 296-17-507), 0206 (WAC 296-17-675), 0302 (WAC 296-17-511), 0401 (WAC 296-17-514), 0402 (WAC 296-17-515), 0403 (WAC 296-17-516), 0502 (WAC 296-17-517), 0504 (WAC 296-17-519), 0505 (WAC 296-17-520), 0508 (WAC 296-17-521), 0509 (WAC 296-17-52101), 0510 (WAC 296-17-52102), 0511 (WAC 296-17-52103), 0512 (WAC 296-17-52104), 0513 (WAC 296-17-52105), 0604 (WAC 296-17-525), 0701 (WAC 296-17-528), 0804 (WAC 296-17-530), 0901 (WAC 296-17-532), 1002 (WAC 296-17-534), 1003 (WAC 296-17-535), 1004 (WAC 296-17-53501), 1101 (WAC 296-17-536), 1102 (WAC 296-17-537), 1109 (WAC 296-17-53806), 1703 (WAC 296-17-550), 1704 (WAC 296-17-551), 2105 (WAC 296-17-56401), 3506 (WAC 296-17-590), 4305 (WAC 296-17-634), 5206 (WAC 296-17-675), 6207 (WAC 296-17-693), 6609 (WAC 296-17-731), 6902 (WAC 296-17-747), 6904 (WAC 296-17-749), 6905 (WAC 296-17-750), 6907 (WAC 296-17-752), 7103 (WAC 296-17-756).)) **Temporary help company: Warehousing and repackaging of soft goods, retail products, and pharmaceuticals.**

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are engaged in warehousing or repackaging of items such as clothing, fabric, yarn, shoes, glassware, art, linens, kitchenware, drugs and pharmaceutical preparations, computer discs, bulk film or cassette tapes and records.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-762 CLASSIFICATION 7109.

((**Temporary help companies**

This classification applies to employees of temporary help companies, N.O.C., that are referred on a temporary basis to its customers. This classification applies if the customer's business is by nature enumerated in this manual as being subject to any of the following risk classifications: 0201 (WAC 296-17-508), 0202 (WAC 296-17-509), 0506 (WAC 296-17-52001), 0507 (WAC 296-17-52002),

1005 (WAC 296-17-53502), 1701 (WAC 296-17-548), 1702 (WAC 296-17-549), 5001 (WAC 296-17-659), 5002 (WAC 296-17-660), 5003 (WAC 296-17-66001), 5004 (WAC 296-17-66002), 6803 (WAC 296-17-743), 6903 (WAC 296-17-748).)) **Temporary help company: Electronic, precision, and scientific equipment assembly and technician services.**

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and engaged in the assembly of electronic or biomedical equipment and employees engaged in printing and bindery work. This classification would include occupations such as electronic assemblers, mechanical assemblers, electro-mechanical assemblers, quality control inspectors, test technicians, kit pullers, storekeepers, laboratory technicians, printers, offset operators, lead typesetters, and bindery workers.

NEW SECTION

WAC 296-17-76201 CLASSIFICATION 7110.

Temporary help company: Field engineer and technician services.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers who are engaged in duties away from the customers premises and who are providing field engineering, field technician and surveying services, telephone installation and service within buildings, vending machine service and parking lot or garage attendants, service station attendants excluding mechanics and weigh scale attendants.

NEW SECTION

WAC 296-17-76202 CLASSIFICATION 7111.

Temporary help company: Health care, medical laboratory, quality control services and testing laboratories N.O.C., and home health services.

This classification applies to employees of a temporary help company who are assigned on a temporary basis to its customers and who are providing health care services and includes such employments as therapists, nurses, nurses aides, physicians, laboratory technicians and assistants.

NEW SECTION

WAC 296-17-76203 CLASSIFICATION 7112.

Temporary help company: Agricultural services.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are engaged in any aspects of agricultural work such as field crops, livestock, stables, dairies, nurseries and greenhouses including the operation of power driven farm machinery or equipment.

NEW SECTION

WAC 296-17-76204 CLASSIFICATION 7113.

Temporary help company: Janitorial and groundskeeping services.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are engaged in janitorial work, preoccupancy building cleanup, and groundskeeping work such as mowing lawns, pruning shrubs and weeding or grounds maintenance of existing landscape as compared to new construction work. Separately report employees engaged in exterior window cleaning, debris or building material cleanup and removal, and new landscape construction (i.e., clearing of land, installation of underground sprinkler systems, planting shrubbery or trees, and sodding lawn) in risk classification 7118. Tree removal to be reported separately in risk classification 7121.

NEW SECTION

WAC 296-17-76205 CLASSIFICATION 7114.

Temporary help company: Assembly work, N.O.C. and freight handling—bulk merchandise, N.O.C.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are engaged in the assembly of wood, metal, or plastic products and freight handling of bulk merchandise who do not operate power driven machinery or equipment. Employees assigned to this classification may,

however, use small power driven hand tools in the assembly process and hand trucks for moving bulk merchandise. This classification also includes inventory takers, N.O.C. Employees whose duties include the operation of power driven equipment or machinery, although they may also be engaged in assembly work or freight handling activities, are to be reported without division of hours in risk classification 7117.

NEW SECTION**WAC 296-17-76206 CLASSIFICATION 7115.**

Temporary help company: Cannery or food processing services, including fresh fruit and vegetable packing and food dehydrating processes.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are assigned to work in a cannery or freezer operation. This classification includes employees engaged in cooking or otherwise preparing food prior to packaging or canning, but excludes employees engaged in plant or cannery equipment or machinery operations or maintenance which are to be reported separately in risk classification 7117.

NEW SECTION**WAC 296-17-76207 CLASSIFICATION 7116.**

Temporary help company: Flagging for public utility, power, water, or gas line construction.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are engaged in flagging services for a public utility company involved in the extension of overhead or underground power line construction or underground water or gas line construction.

NEW SECTION**WAC 296-17-76208 CLASSIFICATION 7117.**

Temporary help company: Machine operators and skilled craftpersons—plant or shop operations, N.O.C.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers who operate power driven equipment or machinery such as forklifts, table saws, drill presses, industrial packaging and processing equipment or machinery and skilled craftpersons such as machinists, sheet metal workers, mechanics, welders, tool and die makers, carpenters, plumbers, cabinet makers, and who are assigned to work in the customer's plant or shop but does not apply to maritime trades.

This classification would include such industries as cabinet shops, canneries, amusement parks, sign paint shops, laundries, printing shops but would exclude industries such as lumbering mills, i.e., saw, shake, or shingle mills and lumber remanufacturing plants.

Employees whose duties include work at a construction site are to be reported without a division of hours in this risk classification. Employees assigned to work in maritime trades subject to Washington workers compensation laws are to be reported separately in risk classification 7120.

NEW SECTION**WAC 296-17-76209 CLASSIFICATION 7118.**

Temporary help company: Construction.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers who are engaged in any aspect of construction work such as road, underground or overhead utility lines, fence, metal erection, signs or lighting including the operation of equipment, machinery, and tools by such employees. This classification also applies to construction security personnel and flaggers, N.O.C.

NEW SECTION**WAC 296-17-76210 CLASSIFICATION 7119.**

Temporary help company: Commercial vehicle operations, N.O.C.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers and who are engaged in commercial vehicle operation such as truck, delivery, and taxi drivers.

NEW SECTION**WAC 296-17-76211 CLASSIFICATION 7120.**

Temporary help company: Hazardous waste handling and maritime employments.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers who are engaged in hazardous waste handling or maritime employments subject to Washington workers compensation laws including diving or subaqueous work.

NEW SECTION**WAC 296-17-76212 CLASSIFICATION 7121.**

Temporary help company: Logging, and saw, shake, or shingle mills, lumber remanufacturing and aircraft operations – flight crew members.

This classification applies to employees of a temporary help company assigned on a temporary basis to its customers who are engaged in any phase of logging or aircraft operations or who are assigned to work in any lumbering mill including equipment or machinery operators related to industries subject to this classification.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)**WAC 296-17-885 TABLE III.**

**Expected Loss Rates and D-Ratios
Expected Loss Rates in Dollars Per Worker Hour
for Indicated Fiscal Year**

CLASS	1984	1985	1986	D-RATIO
0101	.5803	.4838	.5320	.390
0102	.4740	.3952	.4399	.432
0103	.6007	.5008	.5518	.397
0104	.5279	.4398	.4713	.302
0105	.5420	.4517	.4963	.387
0106	.8235	.6863	.7496	.367
0107	.4513	.3763	.4173	.419
0108	.5497	.4582	.5027	.383
0109	1.0331	.8607	.9325	.339
0201	.9062	.7551	.8217	.354
0202	1.1731	.9772	1.0523	.318
0206	.6926	.5770	.6237	.331
0301	.2715	.2265	.2564	.490
0302	.8296	.6915	.7604	.390
0306	.3974	.3314	.3660	.405
0307	.2914	.2429	.2674	.394
0401	1.5975	1.3318	1.4687	.400
0402	.6692	.5578	.6132	.389
0403	.6839	.5698	.6164	.334
0502	.5524	.4604	.5044	.378
0503	.4900	.4083	.4489	.389
0504	.5610	.4678	.5211	.434
0505	.7702	.6420	.7070	.395
0506	1.1163	.9308	1.0372	.435
0507	1.2804	1.0674	1.1771	.400
0508	.9951	.8293	.9048	.363
0509	.9853	.8208	.8836	.317
0510	.5965	.4974	.5509	.415
0511	.4964	.4138	.4538	.380
0512	.6435	.5366	.5977	.434
0513	.4576	.3815	.4197	.392
0514	.5965	.4974	.5509	.415
0515	.7702	.6420	.7070	.395
0516	.7702	.6420	.7070	.395
0601	.1919	.1600	.1780	.430
0602	.2119	.1766	.1946	.394
0603	.3072	.2560	.2802	.374
0604	.6993	.5828	.6376	.372
0606	.1089	.0908	.1010	.427
0607	.1194	.0997	.1103	.417
0608	.1417	.1181	.1314	.428
0701	.7020	.5850	.6356	.349
0803	.1724	.1437	.1575	.380
0804	.2614	.2179	.2397	.391

CLASS	1984	1985	1986	D-RATIO	CLASS	1984	1985	1986	D-RATIO
0901	1.0690	.8909	.9711	.360	3603	.2915	.2431	.2729	.461
0902	.3152	.3236	.3005	.355	3604	.4778	.3982	.4370	.383
1002	.4847	.4041	.4502	.435	3605	.1690	.1409	.1570	.435
1003	.2714	.2263	.2507	.415	((3606	.2975	.2481	.2788	.464))
1004	.2714	.2263	.2507	.415	3701	.1274	.1062	.1167	.389
1005	2.0768	1.7317	1.9259	.429	3702	.2026	.1689	.1859	.395
1007	.0681	.0568	.0642	.483	3706	.1006	.1034	.0957	.388
1101	.2084	.1737	.1934	.432	3707	.1827	.1525	.1719	.477
1102	.6498	.5415	.5921	.370	3708	.1142	.0952	.1060	.433
1103	.1722	.1436	.1608	.452	3801	.1056	.0881	.0974	.411
1104	.2363	.1972	.2209	.454	3802	.0624	.0520	.0592	.503
1106	.0620	.0517	.0588	.510	3803	.0828	.0852	.0784	.450
1108	.2002	.1669	.1861	.438	3805	.0828	.0852	.0784	.450
1109	.4480	.3735	.4118	.400	3806	.0828	.0852	.0784	.450
1301	.1139	.0950	.1055	.424	3808	.1043	.0870	.0981	.479
1303	.0855	.0713	.0796	.441	3809	.1043	.1072	.0988	.441
1304	.0063	.0053	.0059	.486	3901	.0804	.0672	.0747	.433
1305	.1360	.1135	.1269	.449	3902	.2239	.1868	.2087	.445
1401	.4934	.4114	.4551	.410	3903	.4345	.3622	.4019	.420
1404	.2649	.2208	.2437	.403	3904	.3126	.3211	.2969	.403
1405	.2496	.2082	.2318	.435	3905	.0539	.0449	.0507	.479
1501	.1648	.1374	.1516	.402	3906	.2154	.1796	.2001	.434
1507	.1151	.0959	.1059	.406	3909	.0981	.0819	.0932	.507
1701	.8909	.7422	.8026	.333	4002	.2659	.2218	.2473	.437
1702	.8909	.7422	.8026	.333	4101	.0629	.0525	.0590	.462
1703	.2483	.2070	.2292	.413	4103	.1427	.1191	.1337	.461
1704	.3623	.3021	.3314	.382	4104	.0651	.0669	.0617	.439
1801	.3972	.3311	.3662	.410	4107	.0348	.0289	.0324	.450
2002	.2977	.2482	.2772	.443	4108	.0629	.0525	.0590	.462
2003	.2184	.1823	.2040	.451	4109	.0629	.0525	.0590	.462
2004	.3612	.3011	.3342	.421	4201	.1955	.1630	.1801	.406
2005	.1404	.1171	.1313	.458	4301	.3830	.3195	.3616	.490
2007	.1541	.1284	.1413	.393	4302	.3259	.2718	.3038	.448
2008	.1276	.1064	.1176	.409	4303	.4078	.3401	.3799	.445
2101	.2453	.2046	.2288	.448	4304	.2550	.2127	.2377	.446
2102	.2184	.1823	.2040	.451	4305	.5704	.4755	.5242	.398
2104	.1237	.1032	.1166	.481	4401	.1801	.1502	.1682	.453
2105	.2500	.2084	.2297	.398	4402	.2801	.2335	.2582	.408
2106	.2184	.1823	.2040	.451	4404	.2184	.1823	.2040	.451
2201	.1122	.0936	.1049	.460	4501	.0658	.0548	.0597	.357
2202	.1913	.1596	.1777	.435	4502	.0154	.0128	.0141	.395
2203	.1166	.0972	.1094	.468	4503	.0311	.0319	.0294	.426
2401	.2386	.1989	.2218	.437	4504	.0268	.0223	.0249	.455
2903	.2705	.2257	.2544	.477	4601	.2208	.1840	.1991	.335
2904	.3397	.2832	.3162	.443	4802	.1507	.1257	.1405	.447
2905	.2705	.2257	.2544	.477	4803	.1659	.1384	.1548	.448
2906	.2492	.2078	.2333	.460	4804	.2488	.2075	.2338	.473
2907	.2783	.2320	.2585	.435	4805	.1670	.1393	.1567	.467
2908	.4495	.3749	.4164	.425	4806	.0370	.0309	.0349	.476
2909	.2748	.2292	.2580	.472	4807	.7395	.6164	.6775	.389
3101	.2966	.2473	.2718	.388	4808	.1743	.1453	.1627	.452
3102	.2096	.1747	.1935	.414	4809	.0921	.0769	.0863	.463
3103	.2096	.1747	.1935	.414	4810	.0610	.0509	.0569	.448
3104	.2149	.1791	.1972	.392	4811	.1431	.1193	.1319	.410
3105	.3122	.2605	.2951	.493	4812	.1420	.1184	.1324	.447
3301	.3784	.3157	.3563	.480	4901	.0241	.0201	.0221	.401
3302	.3017	.2516	.2787	.415	4902	.0241	.0201	.0225	.455
3303	.1178	.0981	.1086	.412	4903	.0241	.0201	.0221	.401
3309	.1831	.1527	.1685	.405	4904	.0063	.0053	.0059	.486
3401	.1710	.1425	.1576	.409	4905	.1182	.0987	.1114	.483
3402	.1441	.1203	.1342	.442	4906	.0212	.0176	.0197	.438
3403	.0604	.0503	.0560	.429	4907	.0429	.0357	.0397	.425
3404	.1851	.1544	.1725	.446	4908	.0442	.0368	.0409	.429
3405	.0965	.0805	.0896	.430	4909	.0442	.0368	.0409	.429
3406	.0844	.0704	.0785	.437	5001	1.7685	1.4740	1.6135	.374
3407	.1438	.1200	.1318	.390	5002	.2176	.1815	.2046	.475
3408	.0504	.0421	.0463	.397	5003	.7879	.6565	.7122	.344
3409	.0718	.0599	.0667	.431	5004	.6529	.5447	.6174	.495
3501	.3035	.2531	.2816	.431	5101	.3329	.2775	.3075	.416
3503	.1428	.1192	.1351	.493	5102	.6769	.5641	.6182	.378
3505	.2506	.2575	.2380	.399	5103	.4539	.3783	.4161	.390
3506	.3118	.2600	.2859	.391	5104	.2871	.2950	.2731	.388
3508	.2131	.1777	.1984	.442	5106	.3007	.2507	.2767	.403
3601	.0451	.0463	.0426	.439	5107	.1997	.2050	.1896	.405
3602	.0337	.0281	.0317	.483	5108	.3199	.2668	.2962	.423

CLASS	1984	1985	1986	D-RATIO	CLASS	1984	1985	1986	D-RATIO	
5109	.2578	.2150	.2361	.387	6903	2.1082	1.7562	1.8900	.316	
5201	.1379	.1150	.1275	.419	6904	.0849	.0707	.0781	.400	
5204	.7658	.6389	.7194	.472	6905	.1266	.1056	.1159	.385	
5205	.3717	.3818	.3540	.368	6907	.6353	.5297	.5878	.421	
5206	.1653	.1378	.1503	.363	6908	.1327	.1107	.1225	.416	
5207	.0586	.0489	.0554	.487	6909	.0270	.0226	.0252	.444	
5208	.4858	.4050	.4492	.419	7101	.0152	.0126	.0140	.411	
5209	.2895	.2414	.2710	.461	7102	6.3040*	5.2584*	5.9344*	.479	
5301	.0085	.0071	.0079	.388	7103	.0877	.0731	.0809	.413	
5305	.0118	.0098	.0109	.420	((7104	.0228	.0190	.0211	.418	
5306	.0130	.0108	.0120	.428	7105	.1496	.1248	.1399	.458	
5307	.1428	.1191	.1322	.420	7106	.3030	.2526	.2820	.441	
6103	.0138	.0116	.0130	.455	7107	.4663	.3889	.4333	.435	
6104	.1262	.1052	.1174	.438	7108	1.1194	.9336	1.0455	.453	
6105	.1006	.0839	.0945	.469	7109	2.7203	2.2683	2.5221	.428)	
6106	.1066	.1095	.1011	.416	7104	.0085	.0071	.0079	.388	
6107	.0537	.0448	.0492	.388	7105	.0228	.0190	.0211	.418	
6108	.2139	.1785	.2024	.497	7106	.0963	.0803	.0899	.454	
6109	.0150	.0125	.0139	.454	7107	.0963	.0803	.0899	.454	
6201	.0647	.0539	.0599	.427	7108	.0963	.0803	.0899	.454	
6202	.2763	.2303	.2558	.423	7109	.1496	.1248	.1399	.458	
6203	.0471	.0393	.0435	.418	7110	.1496	.1248	.1399	.458	
6204	.0633	.0528	.0594	.466	7111	.1496	.1248	.1399	.458	
6205	.0633	.0528	.0594	.466	7112	.3030	.2526	.2820	.441	
6206	.0633	.0528	.0594	.466	7113	.3030	.2526	.2820	.441	
6207	.3875	.3232	.3641	.473	7114	.3030	.2526	.2820	.441	
6208	.1078	.0898	.0994	.411	7115	.3030	.2526	.2820	.441	
6209	.0983	.0819	.0918	.456	7116	.3030	.2526	.2820	.441	
6301	.0451	.0376	.0417	.413	7117	.4663	.3889	.4333	.435	
6302	.0727	.0606	.0672	.417	7118	1.1194	.9336	1.0455	.453	
6303	.0208	.0174	.0190	.374	7119	1.1194	.9336	1.0455	.453	
6304	.0556	.0463	.0511	.400	7120	2.7203	2.2683	2.5221	.428	
6305	.0220	.0184	.0204	.434	7121	2.7203	2.2683	2.5221	.428	
6306	.1049	.0875	.0968	.412	7201	.1601	.1337	.1512	.489	
6307	.0381	.0390	.0361	.455	7202	.0197	.0164	.0179	.369	
6308	.0185	.0153	.0168	.372	7203	.0462	.0385	.0428	.421	
6309	.0383	.0320	.0361	.477	7301	.2783	.2321	.2595	.446	
6401	.0381	.0390	.0361	.455	7302	.2286	.1907	.2146	.471	
6402	.0963	.0803	.0899	.454	7307	.2822	.2355	.2692	.524	
6403	.0525	.0437	.0496	.494	7308	.1038	.0865	.0962	.429	
6404	.0363	.0303	.0340	.466	7309	.0527	.0439	.0497	.485	
6405	.2267	.1889	.2087	.405	*Daily expected loss rate					
6406	.0282	.0235	.0265	.467	<u>AMENDATORY SECTION</u> (Amending Order 87-26, filed 12/1/87, effective 1/1/88)					
6407	.0573	.0478	.0540	.475	WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID RATES BY CLASS OF INDUSTRY. Industrial insurance accident fund base rates and medical aid rates by class of industry shall be as set forth below.					
6408	.1369	.1141	.1252	.383	Rates Effective January 1, 1988					
6409	.2140	.1784	.1950	.369	_____ Class Accident Fund Base Rate Medical Aid Fund Rate					
6501	.0199	.0165	.0188	.487	0101	0.9093	0.4644			
6502	.0078	.0065	.0072	.437	0102	0.7490	0.5074			
6503	.0531	.0443	.0471	.280	0103	0.9427	0.6846			
6504	.1006	.0840	.0959	.521	0104	0.8123	0.3839			
6505	.0744	.0620	.0697	.466	0105	0.8486	0.8076			
6506	.0232	.0193	.0215	.416	0106	1.2841	0.8792			
6507	.1502	.1545	.1424	.429	0107	0.7114	0.3929			
6508	.1608	.1341	.1509	.469	0108	0.8600	0.5013			
6509	.0822	.0686	.0774	.479	0109	1.6017	0.9324			
6601	.0845	.0705	.0788	.445	0201	1.4093	0.8793			
6602	.1856	.1548	.1743	.469	0202	1.8110	1.5587			
6603	.1072	.0894	.1004	.463	0206	1.0721	0.6733			
6604	.0326	.0272	.0303	.434	0301	0.4342	0.3572			
6605	.0878	.0732	.0823	.463	0302	1.2999	0.6161			
6607	.0586	.0489	.0554	.487	0306	0.6247	0.4400			
6608	.1287	.1073	.1191	.419	0307	0.4569	0.4495			
6609	1.1543	.9630	1.0884	.485	0401	2.5082	1.4778			
6704	.0750	.0625	.0695	.425						
6705	.2719	.2267	.2569	.493						
6706	.1300	.1084	.1206	.429						
6707	4.4696*	3.7304*	4.2872*	.542						
6708	.10774	.8986	1.0082	.459						
6709	.0527	.0439	.0497	.485						
6801	.2842	.2370	.2636	.429						
6802	.1696	.1414	.1573	.430						
6803	1.3181	1.0974	1.1547	.241						
6804	.1083	.0903	.0984	.361						
6809	.8277	.6906	.7855	.507						
6902	.3661	.3051	.3306	.339						

Rates Effective January 1, 1988			Rates Effective January 1, 1988		
Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
0402	1.0483	0.9827	2903	0.4314	0.4122
0403	1.0592	0.7230	2904	0.5379	0.4367
0502	0.8633	0.5312	2905	0.4314	0.4122
0503	0.7675	0.7671	2906	0.3962	0.3008
0504	0.8870	0.6192	2907	0.4401	0.4205
0505	1.2079	0.7058	2908	0.7094	0.4791
0506	1.7654	1.3529	2909	0.4378	0.4183
0507	2.0103	1.3163	3101	0.4645	0.2845
0508	1.5505	1.3043	3102	0.3300	0.2285
0509	1.5209	0.8162	3103	0.3300	0.2285
0510	0.9395	0.6494	3104	0.3369	0.3727
0511	0.7764	0.4345	3105	0.4996	0.4441
0512	1.0175	0.6587	3301	0.6040	0.4112
0513	0.7172	0.4190	3302	0.4752	0.3445
0514	0.9395	0.6494	3303	0.1853	0.2097
0515	1.2079	0.7058	3309	0.2878	0.3378
0516	1.2079	0.7058	3401	0.2690	0.2367
0601	0.3032	0.2940	3402	0.2283	0.2720
0602	0.3324	0.2134	3403	0.0954	0.0875
0603	0.4796	0.3725	3404	0.2934	0.3018
0604	1.0917	0.8333	3405	0.1526	0.1498
0606	0.1720	0.1876	3406	0.1336	0.1620
0607	0.1882	0.1689	3407	0.2254	0.1803
0608	0.2237	0.2465	3408	0.0792	0.0740
0701	1.0907	0.5786	3409	0.1135	0.1938
0803	0.2696	0.2100	3501	0.4795	0.4461
0804	0.4096	0.2921	3503	0.2287	0.1924
0901	1.6647	0.6481	3506	0.4887	0.3374
1002	0.7664	0.6163	3508	0.3376	0.3028
1003	0.4275	0.2857	3602	0.0537	0.0658
1004	0.4275	0.2857	3603	0.4635	0.4092
1005	3.2801	1.6494	3604	0.7475	0.5585
1007	0.1088	0.1180	3605	0.2673	0.2392
1101	0.3293	0.3204	3606	0.4732	0.4000
1102	1.0140	0.5206	3701	0.1996	0.1877
1103	0.2733	0.2864	3702	0.3177	0.2172
1104	0.3753	0.3178	3707	0.2914	0.2234
1106	0.0995	0.1326	3708	0.1805	0.1733
1108	0.3168	0.3430	3801	0.1662	0.1518
1109	0.7033	0.5388	3802	0.1000	0.0949
1301	0.1798	0.1549	3808	0.1664	0.1419
1303	0.1354	0.1153	3901	0.1272	0.1146
1304	0.0101	0.0128	3902	0.3549	0.3015
1305	0.2157	0.2320	3903	0.6850	0.7125
1401	0.7764	0.9738	3905	0.0860	0.1281
1404	0.4160	0.2512	3906	0.3405	0.2243
1405	0.3947	0.2382	3909	0.1575	0.1585
1501	0.2589	0.1825	4002	0.4207	0.3189
1507	0.1809	0.1746	4101	0.1000	0.1122
1701	1.3795	0.5348	4103	0.2269	0.2329
1702	1.3795	0.5348	4107	0.0551	0.0614
1703	0.3909	0.2264	4108	0.1000	0.1122
1704	0.5669	0.3559	4109	0.1000	0.1122
1801	0.6248	0.5719	4201	0.3074	0.2155
2002	0.4715	0.3381	4301	0.6125	0.5421
2003	0.3466	0.2702	4302	0.5166	0.4488
2004	0.5695	0.4361	4304	0.4043	0.4078
2005	0.2231	0.2250	4305	0.8952	0.5884
2007	0.2415	0.2310	4401	0.2858	0.2607
2008	0.2007	0.1545	4402	0.4405	0.3243
2101	0.3889	0.4256	4404	0.3466	0.2702
2102	0.3466	0.2702	4501	0.1023	0.0777
2104	0.1976	0.1930	4502	0.0242	0.0227
2105	0.3923	0.2455	4504	0.0425	0.0628
2106	0.3466	0.2702	4601	0.3420	0.4517
2201	0.1783	0.1435	4802	0.2389	0.1661
2202	0.3025	0.2907	4803	0.2631	0.2007
2203	0.1856	0.1782	4804	0.3964	0.3012
2401	0.3774	0.3303	4805	0.2659	0.2263

Rates Effective
January 1, 1988

Rates Effective
January 1, 1988

Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
4806	0.0591	0.0519	6504	0.1620	0.2603
4808	0.2766	0.2719	6505	0.1183	0.1349
4809	0.1466	0.1650	6506	0.0365	0.0407
4810	0.0967	0.0795	6508	0.2561	0.2283
4811	0.2251	0.1886	6509	0.1312	0.1504
4812	0.2252	0.1559	6601	0.1340	0.1179
4901	0.0378	0.0334	6602	0.2956	0.2536
4902	0.0382	0.0355	6603	0.1705	0.1682
4903	0.0378	0.0334	6604	0.0516	0.0388
4904	0.0101	0.0128	6605	0.1397	0.1154
4905	0.1888	0.2007	6607	0.0938	0.1036
4906	0.0335	0.0359	6608	0.2029	0.1324
4907	0.0677	0.0584	6609	1.8442	1.8325
4908	0.0697	0.1381	6704	0.1184	0.1334
4909	0.0697	0.1381	6705	0.4350	0.5699
5001	2.7621	1.6466	6706	0.2053	0.2378
5002	0.3469	0.2895	6707	7.23*	10.45*
5003	1.2227	0.6197	6708	1.7123	2.3520
5004	1.0452	0.8116	6709	0.0841	0.1401
5101	0.5243	0.3380	6801	0.4489	0.2700
5102	1.0580	0.6467	6802	0.2679	0.2947
5103	0.7112	0.5788	6803	2.0026	0.6312
5106	0.4724	0.4337	6804	0.1686	0.1532
5108	0.5048	0.4819	6809	1.3283	2.5744
5109	0.4038	0.3466	6901		0.0661
5201	0.2174	0.1977	6902	0.5677	0.2322
5204	1.2204	0.5559	6903	3.2535	3.0083
5206	0.2575	0.1824	6904	0.1333	0.1094
5207	0.0938	0.1036	6905	0.1982	0.1650
5208	0.7656	0.5861	6906		0.1650
5209	0.4602	0.3797	6907	1.0018	0.6342
5301	0.0134	0.0159	6908	0.2090	0.1762
5305	0.0186	0.0186	6909	0.0428	0.0458
5306	0.0204	0.0180	7101	0.0239	0.0184
5307	0.2252	0.1791	7102	10.06*	24.77*
6103	0.0220	0.0349	7103	0.1380	0.1110
6104	0.1996	0.2080	(7104)	0.0358	0.0255
6105	0.1602	0.1293	7105	0.2377	0.1778
6107	0.0841	0.0885	7106	0.4797	0.3201
6108	0.3426	0.3091	7107	0.7376	0.7610
6109	0.0238	0.0213	7108	1.7767	1.1313
6201	0.1021	0.1095	7109	4.2958	3.3871))
6202	0.4358	0.3376	7104	0.0134	0.0159
6203	0.0742	0.0660	7105	0.0358	0.0255
6204	0.1007	0.1183	7106	0.1529	0.1300
6205	0.1007	0.1183	7107	0.1529	0.1300
6206	0.1007	0.1183	7108	0.1529	0.1300
6207	0.6175	0.7049	7109	0.2377	0.1778
6208	0.1696	0.1762	7110	0.2377	0.1778
6209	0.1560	0.1850	7111	0.2377	0.1778
6301	0.0710	0.0576	7112	0.4797	0.3201
6302	0.1145	0.0935	7113	0.4797	0.3201
6303	0.0326	0.0362	7114	0.4797	0.3201
6304	0.0872	0.0742	7115	0.4797	0.3201
6305	0.0348	0.0362	7116	0.4797	0.3201
6306	0.1652	0.1871	7117	0.7376	0.7610
6308	0.0288	0.0198	7118	1.7767	1.1313
6309	0.0612	0.0809	7119	1.7767	1.1313
6402	0.1529	0.1300	7120	4.2958	3.3871
6403	0.0840	0.1159	7121	4.2958	3.3871
6404	0.0578	0.0663	7201	0.2561	0.2077
6405	0.3563	0.3317	7202	0.0307	0.0286
6406	0.0449	0.0602	7203	0.0729	0.0674
6407	0.0915	0.1307	7204		
6408	0.2142	0.2320	7301	0.4411	0.3408
6409	0.3339	0.2572	7302	0.3642	0.4448
6501	0.0317	0.0345	7307	0.4545	0.5242
6502	0.0123	0.0150	7308	0.1638	0.1453
6503	0.0814	0.0463	7309	0.0841	0.1401

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-598 CLASSIFICATION 3606.

WSR 88-06-073

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning chapter 296-24 WAC, General safety and health standards, is being amended by repealing WAC 296-24-590, Portable fire suppression equipment—Portable fire extinguishers and 296-24-605, Fixed fire suppression equipment—Automatic sprinkler systems. These sections were the authority narrative for nine sections repealed on November 30, 1987. OSHA requirements for these sections were previously incorporated elsewhere in the standard. WAC 296-24-21707(4), 296-24-68203 (4) and (5)(z) and 296-24-78009 are being amended to correct numbering of several items. These are state-initiated formatting changes to make WISHA as effective as OSHA and do not impose any new compliance requirements; chapter 296-45 WAC, Electrical workers safety rules, is being amended to repeal WAC 296-45-65025, Grounding, and to add proposed WAC 296-45-65026, Personal protective grounding, that provides for single point grounding which is more effective than the grounding method provided for in the current standard. WAC 296-45-65037 is being amended to correct a spelling error in subsection (16) and correct a reference in subsection (18). This state-initiated change requires the use of single point grounding which provides a greater measure of worker protection. This method should also reduce job time by reducing the number of grounds which must be attached to a power line before work can begin and the number which must be removed when work is completed; chapter 296-62 WAC, General occupational health standards, is being amended by inclusion of appendices into the standard. WAC 296-62-07341 Acrylonitrile, is being repealed and reissued as WAC 296-62-07336, with the addition of appendices A through D, WAC 296-62-07337, 296-62-07338, 296-62-07339 and 296-62-07340. WAC 296-62-07345, 1,2-Dibromo-3-Chloropropane (DBCP) is being repealed and reissued as WAC 296-62-07342, with the addition of appendices A through C, WAC 296-62-07343, 296-62-07344 and 296-62-07346. These appendices, which are nonmandatory, were included in the standard for convenience. They were previously referenced only. Their addition makes this WISHA standard as effective as OSHA's. This is a state-initiated change and does not impose any new compliance requirements; and chapter 296-155

WAC, Safety standards for construction work, is being revised to add new sections, clarify and update definitions, and incorporate the National Electric Code (NEC) requirements which directly affect employee safety in construction workplaces. Compliance with the NEC was previously required by reference; its inclusion in the current standard gives easier access to the requirement and makes WISHA as effective as OSHA. The requirements have been written in layman's terms. Rules from the present Part I – Electrical will be repealed and incorporated in the new Part I – Electrical of chapter 296-155 WAC, to be as-effective-as OSHA's Subpart K – Electrical (1926.400 to 1926.449). (Reference FR Vol. 51, No. 133 dated 7/11/86 and OSHA Instr. STP 2-1.127.) The definition of high voltage will remain "over 750 volts nominal". (Reference chapter 19.29 RCW, Laws of 1913.) This is a federal initiated change and does not impose any new compliance requirements.

Amd	WAC 296-24-21707	Tire servicing equipment.
Amd	WAC 296-24-68203	Cylinders and containers.
Amd	WAC 296-24-78009	Care and use of ladders.
Amd	WAC 296-45-65037	Underground wiring.
New	WAC 296-45-65026	Personal protective grounding.
New	WAC 296-62-07336	Acrylonitrile.
New	WAC 296-62-07337	Appendix A—Substance safety data sheet for acrylonitrile.
New	WAC 296-62-07338	Appendix B—Substance technical guidelines—Acrylonitrile.
New	WAC 296-62-07339	Appendix C—Medical surveillance guidelines for acrylonitrile.
New	WAC 296-62-07340	Appendix D—Sampling and analytical methods for acrylonitrile.
New	WAC 296-62-07342	1,2-Dibromo-3-Chloropropane.
New	WAC 296-62-07343	Appendix A—Substance safety data sheet for DBCP.
New	WAC 296-62-07344	Appendix B—Substance technical guidelines for DBCP.
New	WAC 296-62-07346	Appendix C—Medical surveillance guidelines for DBCP.
New	WAC 296-155-426	Introduction.
New	WAC 296-155-428	General requirements.
New	WAC 296-155-429	Lockout and tagging of circuits.
New	WAC 296-155-432	Maintenance of equipment.
New	WAC 296-155-434	Environmental deterioration of equipment.
New	WAC 296-155-437	Batteries and battery charging.
New	WAC 296-155-441	Applicability.
New	WAC 296-155-444	General requirements.
New	WAC 296-155-447	Wiring design and protection.
New	WAC 296-155-449	Wiring methods, components, and equipment for general use.
New	WAC 296-155-452	Specific purpose equipment and installations.
New	WAC 296-155-456	Hazardous (classified) locations.
New	WAC 296-155-459	Special systems.
New	WAC 296-155-462	Definitions applicable to this part.
Rep	WAC 296-24-590	Portable fire suppression equipment—Portable fire extinguishers.
Rep	WAC 296-24-605	Fixed fire suppression equipment—Automatic sprinkler systems.
Rep	WAC 296-45-65025	Grounding.
Rep	WAC 296-62-07341	Acrylonitrile.
Rep	WAC 296-62-07345	1,2-Dibromo-3-Chloropropane.
Rep	WAC 296-155-425	Definitions applicable to this part.
Rep	WAC 296-155-430	General requirements.
Rep	WAC 296-155-435	Grounding and bonding.
Rep	WAC 296-155-440	Equipment installation and maintenance.
Rep	WAC 296-155-450	Battery rooms and battery charging.
Rep	WAC 296-155-455	Hazardous locations;

that the agency will at 9:30 a.m., Thursday, April 7, 1988, in the General Administration Building, West Capitol Campus, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 11, 1988.

The authority under which these rules are proposed is chapters 49.17 and 34.04 RCW and chapter 1-12 WAC.

The specific statute these rules are intended to implement is RCW 49.17.060 and chapter 19.29 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Thursday, April 7, 1988.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments or rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the formal decision for adoption or in response to written comments received before the deadline.

The agency may need to change the date for public hearing or adoption on short notice. To ascertain that the public hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and proposed rules should be addressed to:

G. David Hutchins, Assistant Director
Division of Industrial Safety and Health
Post Office Box 207
Olympia, Washington 98504
(206) 753-6500

Dated: March 2, 1988
By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-24 WAC, General safety and health standards; chapter 296-45 WAC, Electrical workers safety rules; chapter 296-62 WAC, General occupational health standards; and chapter 296-155 WAC, Safety standards for construction work.

Authority Under Which These Rules are Proposed: Chapters 49.17 and 34.04 RCW and chapter 1-12 WAC.

Specific Statute that Rules are Intended to Implement: RCW 49.17.060 and chapter 19.29 RCW.

Summary of Rule(s): Same as above.

Description of the Purpose of the Rule(s): To ensure a healthful and safe workplace for all employees in the state of Washington.

Reasons for Supporting the Proposed Rule(s): To ensure a safe and healthful working environment for Washington state workers; and federal OSHA requirements and chapter 19.29 RCW support the changes being made to chapter 296-155 WAC.

Agency Personnel Responsible for Drafting: Ray Wax, Safety Regulations Program Supervisor, Department of Labor and Industries, Division of Industrial

Safety and Health, 805 Plum Street Southeast, Olympia, Washington 98504, phone (206) 753-6381; Implementation and Enforcement: G. David Hutchins, Assistant Director, Department of Labor and Industries, Division of Industrial Safety and Health, 805 Plum Street Southeast, Olympia, Washington 98504, phone (206) 753-6500.

Name of Person or Organization, Whether Private, Public or Governmental that is Proposing the Rule(s): Washington State Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): Four individual statements are shown below.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

The Washington Regulatory Fairness Act, chapter 19.85 RCW, requires that proposed rules which have an economic impact on more than twenty percent of all industries or more than ten percent of the businesses in any one industry shall be reviewed to determine if the cost of coming into compliance with the proposed agency rules will create a disproportionately higher economic burden on small businesses in comparison with the cost of compliance for large businesses. The act defines a small business as an employer with fifty or fewer employees.

GENERAL SAFETY AND HEALTH STANDARDS, CHAPTER 296-24 WAC; PROPOSED AMENDMENTS TO WAC 296-24-21707, 296-24-68203 and 296-24-78009; TIRE SERVICING EQUIPMENT, CYLINDERS AND CONTAINERS, AND CARE AND USE OF LADDERS

With respect to the proposed amendment for chapter 296-24 WAC, WAC 296-24-21707(4), 296-24-68203 (4) and (5)(z), and 296-24-78009, the findings of the agency are as follows:

The proposed amendments to rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance in any way because the amended rules do not establish any new compliance regulation. The changes being made are to correct grammatical errors only. There are no new compliance requirements.

ELECTRICAL WORKERS SAFETY RULES, CHAPTER 296-45 WAC; PROPOSED NEW SECTION WAC 296-45-65026, PERSONAL PROTECTIVE GROUNDING

With respect to the proposed amendment for chapter 296-45 WAC, Electrical workers safety rules, WAC 296-45-65026 Personal protective grounding, the findings of the agency are as follows:

The rule, as amended, will apply to electrical workers of installations under the exclusive control of electrical utilities.

This rule will possibly result in a net savings to the employer by reducing the time required to complete work projects by reducing the number of grounds which must be applied to the line before work is started and removed once work is completed. For this reason the

rules will not have any adverse economic impact on any employer.

GENERAL OCCUPATIONAL HEALTH STANDARDS, CHAPTER 296-62 WAC; PROPOSED AMENDMENTS TO WAC 296-62-07336, ACRYLONITRILE AND APPENDICES A, B, C, AND D (WAC 296-62-07337, 296-62-07338, 296-62-07339 and 296-62-07340); AND WAC 296-62-07342, 1,2-DIBROMO-3-CHLOROPROPANE AND APPENDICES A, B AND C (WAC 296-62-07343, 296-62-07344 and 296-62-07346)

With respect to the proposed amendment for chapter 296-62 WAC, WAC 296-62-07336 et seq. and 296-62-07342 et seq. The findings of the agency are as follows:

The proposed amendments to rules potentially influence any and all workplaces where there is manufacturing, processing, repackaging, releasing, handling or storage of carcinogens.

The rules, as amended, will not influence or change the cost to any employer coming into compliance in any way because the amended rules do not establish any new compliance regulation. Previously the appendices, which are nonmandatory, were adopted but not included as a part of the printed standard. They will now be a part of the printed standard and allow easier access to the employer. Previously the employer had to request a copy from our agency.

SAFETY STANDARDS FOR CONSTRUCTION, CHAPTER 296-155 WAC; PROPOSED AMENDMENTS FOR PART I, WAC 296-155-426 THROUGH 296-155-462, ELECTRICAL STANDARDS FOR CONSTRUCTION

With respect to the proposed amendments for chapter 296-155 WAC, the findings of the agency are as follows:

The proposed regulations will influence more than 10 percent of the electrical construction employers.

The agency does have preexisting regulations governing the subject matter of the proposed regulations.

The Federal Occupational Safety and Health Administration (OSHA) has conducted a full regulatory impact analysis, see Federal Register Vol. 51, No. 133, published July 11, 1986, Section VI, pages 25316 and 25317.

The conclusionary finding of the (OSHA) analysis is that conducting electrical construction operations in full compliance with the amended regulations will result in a cost savings when compared to the cost of conducting operations in compliance with the current applicable regulations. The identified OSHA analysis estimates a cost savings for small employers of 3.4 percent.

The agency proposing the WAC amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than those published in the identified OSHA analysis.

**PART I
ELECTRICAL**

NEW SECTION

WAC 296-155-426 INTRODUCTION. This part addresses electrical safety requirements that are necessary for the practical safeguarding of employees involved in construction work and is divided into four major divisions and applicable definitions as follows:

(1) Introduction and definitions. Definitions applicable to this part are contained in WAC 296-155-462.

(2) Installation safety requirements. Installation safety requirements are contained in WAC 296-155-441 through 296-155-459. Included in this category are electric equipment and installations used to provide electric power and light on jobsites.

(3) Safety-related work practices. Safety-related work practices are contained in WAC 296-155-428 and 296-155-429. In addition to covering the hazards arising from the use of electricity at jobsites, these regulations also cover the hazards arising from the accidental contact, direct or indirect, by employees with all energized lines, above or below ground, passing through or near the jobsite.

(4) Safety-related maintenance and environmental considerations. Safety-related maintenance and environmental considerations are contained in WAC 296-155-432 and 296-155-434.

(5) Safety requirements for special equipment. Safety requirements for special equipment are contained in WAC 296-155-437.

NEW SECTION

WAC 296-155-428 GENERAL REQUIREMENTS. (1) Protection of employees.

(a) No employer shall permit an employee to work in such proximity to any part of an electric power circuit that the employee could contact the electric power circuit in the course of work, unless the employee is protected against electric shock by de-energizing the circuit and grounding it or by guarding it effectively by insulation or other means.

(b) No person, firm, corporation, or agent of same, shall require or permit any employee to perform any function in proximity to electrical conductors or to engage in any excavation, construction, demolition, repair, or other operation, unless and until danger from accidental contact with said electrical conductors has been effectively guarded by de-energizing the circuit and grounding it or by guarding it by effective insulation or other effective means.

(c) Before work is begun the employer shall ascertain by inquiry or direct observation, or by instruments, whether any part of an energized electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. The employer shall post and maintain proper warning signs where such a circuit exists. The employer shall advise employees of the location of such lines, the hazards involved, and the protective measures to be taken.

(d) No work shall be performed, no material shall be piled, stored or otherwise handled, no scaffolding, commercial signs, or structures shall be erected or dismantled, nor any tools, machinery or equipment operated within the specified minimum distances from any energized high voltage electrical conductor capable of energizing the material or equipment; except where the electrical distribution and transmission lines have been de-energized and visibly grounded at point of work, or where insulating barriers not a part of or an attachment to the equipment have been erected, to prevent physical contact with the lines, equipment shall be operated proximate to, under, over, by, or near energized conductors only in accordance with the following:

(i) For lines rated 50 kV. or below, minimum clearance between the lines and any part of the equipment or load shall be ten feet.

(ii) For lines rated over 50 kV. minimum, clearance between the lines and any part of the equipment or load shall be ten feet plus 0.4 inch or each 1 kV. over 50 kV., or twice the length of the line insulator but never less than ten feet.

(e) If relocation of the electrical conductors is necessary, arrangements shall be made with the owners of the lines for such relocation.

(f) Barriers.

(i) Barriers shall be of such character and construction as to effectively provide the necessary protection without creating other hazards or jeopardizing the operation of the electrical circuits.

(ii) Barriers installed within the ten feet clearance from conductors shall be installed only under the supervision of authorized and qualified persons and this shall include a representative of the electrical utility or owner involved.

(g) Exceptions.

(i) These rules do not apply to the construction, reconstruction, operation, and maintenance, of overhead electrical lines, structures, and associated equipment by authorized and qualified electrical workers.

(ii) These rules do not apply to authorized and qualified employees engaged in the construction, reconstruction, operation, and maintenance, of overhead electrical circuits or conductors and associated equipment of rail transportation systems or electrical generating, transmission, distribution and communication systems which are covered by chapters 296-45 and 296-32 WAC.

(h) Special precautions must be taken.

- (i) When handling any winch lines, guy wires, or other free cable, wire or rope in the vicinity of any electrical conductors.
- (ii) When pulling a winch line, or other cable or rope under energized electrical conductors from a boom, mast, pile driver, etc., in such a manner as to make possible an approach to within ten feet of a conductor.
- (iii) When there is possibility of a winch line, cable, etc., either becoming disconnected or breaking under load because of excessive strain and flipping up into overhead conductors.
- (iv) When placing steel, concrete reinforcement, wire mesh, etc.
- (v) When handling pipe or rod sections in connection with digging wells or test holes.
- (vi) When moving construction equipment, apparatus, machinery, etc., all such movements must avoid striking supporting structures, guy wires, or other elements of the electrical utility system causing the conductors to so swing or move as to decrease clearances to less than ten feet from construction equipment, or to cause them to come together.
- (i) Warning sign required.
- (i) An approved durable warning sign legible at twelve feet, reading "It is unlawful to operate this equipment within ten feet of electrical conductors" shall be posted and maintained in plain view of the operator at the controls of each crane, derrick, shovel, drilling rig, pile driver or similar apparatus which is capable of vertical, lateral or swinging motion.
- (ii) A similar sign shall be installed on the outside of the equipment and located as to be readily visible to mechanics or other persons engaged in the work operation.
- (iii) Signs shall be not less than 6" x 8" dimensions with the word "WARNING" or "DANGER" in large letters and painted red across the top and the other letters in black painted on yellow background.
- (j) Any overhead wire shall be considered to be an energized line until the owner of such line or the electrical utility authorities indicate that it is not an energized line and it has been visibly grounded.
- (2) Passageways and open spaces.
 - (a) Barriers or other means of guarding shall be provided to ensure that workspace for electrical equipment will not be used as a passageway during periods when energized parts of electrical equipment are exposed.
 - (b) Working spaces, walkways, and similar locations shall be kept clear of cords so as not to create a tripping hazard to employees.
 - (3) Load ratings. In existing installations, no changes in circuit protection shall be made to increase the load in excess of the load rating of the circuit wiring.
 - (4) Fuses. When fuses are installed or removed with one or both terminals energized, special tools insulated for the voltage shall be used.
 - (5) Cords and cables.
 - (a) Worn or frayed electric cords or cables shall not be used.
 - (b) Extension cords shall not be fastened with staples, hung from nails, or suspended by wire.

NEW SECTION

WAC 296-155-429 LOCKOUT AND TAGGING OF CIRCUITS. (1) Controls. Controls that are deactivated during the course of work on energized or de-energized equipment or circuits shall be tagged and padlocked in the open position.

(2) Equipment and circuits. Equipment or circuits that are de-energized shall be rendered inoperative and have tags and locked padlocks attached at all points where such equipment or circuits can be energized.

(3) Tags. Tags shall be placed to identify plainly the equipment or circuits being worked on.

NEW SECTION

WAC 296-155-432 MAINTENANCE OF EQUIPMENT. The employer shall ensure that all wiring components and utilization equipment in hazardous locations are maintained in a dust-tight, dust-ignition-proof, or explosion-proof condition, as appropriate. There shall be no loose or missing screws, gaskets, threaded connections, seals, or other impairments to a tight condition.

NEW SECTION

WAC 296-155-434 ENVIRONMENTAL DETERIORATION OF EQUIPMENT. (1) Deteriorating agents.

(a) Unless identified for use in the operating environment, no conductors or equipment shall be located:

- (i) In damp or wet locations;
- (ii) Where exposed to gases, fumes, vapors, liquids, or other agents having a deteriorating effect on the conductors or equipment;
- (iii) Where exposed to excessive temperatures.

(b) Control equipment, utilization equipment, and busways approved for use in dry locations only shall be protected against damage from the weather during building construction.

(2) Protection against corrosion. Metal raceways, cable armor, boxes, cable sheathing, cabinets, elbows, couplings, fittings, supports, and support hardware shall be of materials appropriate for the environment in which they are to be installed.

NEW SECTION

WAC 296-155-437 BATTERIES AND BATTERY CHARGING. (1) General requirements.

(a) Batteries of the unsealed type shall be located in enclosures with outside vents or in well ventilated rooms and shall be arranged so as to prevent the escape of fumes, gases, or electrolyte spray into other areas.

(b) Ventilation shall be provided to ensure diffusion of the gases from the battery and to prevent the accumulation of an explosive mixture.

(c) Racks and trays shall be substantial and shall be treated to make them resistant to the electrolyte.

(d) Floors shall be of acid resistant construction unless protected from acid accumulations.

(e) Face shields, aprons, and rubber gloves shall be provided for and worn by workers handling acids or batteries.

(f) Facilities for quick drenching of the eyes and body shall be provided within 25 feet (7.62 m) of battery handling areas.

(g) Facilities shall be provided for flushing and neutralizing spilled electrolyte and for fire protection.

(2) Charging.

(a) Battery charging installations shall be located in areas designated for that purpose.

(b) Charging apparatus shall be protected from damage by trucks.

(c) When batteries are being charged, the vent caps shall be kept in place to avoid electrolyte spray. Vent caps shall be maintained in functioning condition.

NEW SECTION

WAC 296-155-441 APPLICABILITY. (1) Covered. WAC 296-155-441 through 296-155-459 contain installation safety requirements for electrical equipment and installations used to provide electric power and light at the jobsite. These sections apply to installations, both temporary and permanent, used on the jobsite; but these sections do not apply to existing permanent installations that were in place before the construction activity commenced.

Note: If the electrical installation is made in accordance with the National Electrical Code ANSI/NFPA 70-1984, exclusive of formal interpretations and tentative interim amendments, it will be deemed to be in compliance with WAC 296-155-444 through 296-155-459, except for WAC 296-155-447 (2)(a) and 296-155-449 (1)(b)(ii)(E), (F), (G), and (J).

(2) Not covered. WAC 296-155-441 through 296-155-459 do not cover installations used for the generation, transmission, and distribution of electric energy, including related communication, metering, control, and transformation installations. (However, these regulations do cover portable and vehicle-mounted generators used to provide power for equipment used at the jobsite.) See chapter 296-44 WAC, Safety standards—Electrical Construction Code, for the construction of power distribution and transmission lines.

NEW SECTION

WAC 296-155-444 GENERAL REQUIREMENTS. (1) Approval. All electrical conductors and equipment shall be approved.

(2) Examination, installation, and use of equipment.

(a) Examination. The employer shall ensure that electrical equipment is free from recognized hazards that are likely to cause death or serious physical harm to employees. Safety of equipment shall be determined on the basis of the following considerations:

(i) Suitability for installation and use in conformity with the provisions of this part. Suitability of equipment for an identified purpose

may be evidenced by listing, labeling, or certification for that identified purpose.

(ii) Mechanical strength and durability, including, for parts designed to enclose and protect other equipment, the adequacy of the protection thus provided.

(iii) Electrical insulation.

(iv) Heating effects under conditions of use.

(v) Arcing effects.

(vi) Classification by type, size, voltage, current capacity, specific use.

(vii) Other factors which contribute to the practical safeguarding of employees using or likely to come in contact with the equipment.

(b) Installation and use. Listed, labeled, or certified equipment shall be installed and used in accordance with instructions included in the listing, labeling, or certification.

(3) Interrupting rating. Equipment intended to break current shall have an interrupting rating at system voltage sufficient for the current that must be interrupted.

(4) Mounting and cooling of equipment.

(a) Mounting. Electric equipment shall be firmly secured to the surface on which it is mounted. Wooden plugs driven into holes in masonry, concrete, plaster, or similar materials shall not be used.

(b) Cooling. Electrical equipment which depends upon the natural circulation of air and convection principles for cooling of exposed surfaces shall be installed so that room air flow over such surfaces is not prevented by walls or by adjacent installed equipment. For equipment designed for floor mounting, clearance between top surfaces and adjacent surfaces shall be provided to dissipate rising warm air. Electrical equipment provided with ventilating openings shall be installed so that walls or other obstructions do not prevent the free circulation of air through the equipment.

(5) Splices. Conductors shall be spliced or joined with splicing devices designed for the use or by brazing, welding, or soldering with a fusible metal or alloy. Soldered splices shall first be so spliced or joined as to be mechanically and electrically secure without solder and then soldered. All splices and joints and the free ends of conductors shall be covered with an insulation equivalent to that of the conductors or with an insulating device designed for the purpose.

(6) Arcing parts. Parts of electric equipment which in ordinary operation produce arcs, sparks, flames, or molten metal shall be enclosed or separated and isolated from all combustible material.

(7) Marking. Electrical equipment shall not be used unless the manufacturer's name, trademark, or other descriptive marking by which the organization responsible for the product may be identified is placed on the equipment and unless other markings are provided giving voltage, current, wattage, or other ratings as necessary. The marking shall be of sufficient durability to withstand the environment involved.

(8) Identification of disconnecting means and circuits. Each disconnecting means required by this part for motors and appliances shall be legibly marked to indicate its purpose, unless located and arranged so the purpose is evident. Each service, feeder, and branch circuit, at its disconnecting means or overcurrent device, shall be legibly marked to indicate its purpose, unless located and arranged so the purpose is evident. These markings shall be of sufficient durability to withstand the environment involved.

(9) Construction site. Precautions shall be taken to make any necessary open wiring inaccessible to unauthorized personnel.

(10) 750 volts, nominal, or less. This subsection applies to equipment operating at 750 volts, nominal, or less.

(a) Working space about electric equipment. Sufficient access and working space shall be provided and maintained about all electric equipment to permit ready and safe operation and maintenance of such equipment.

(i) Working clearances. Except as required or permitted elsewhere in this part, the dimension of the working space in the direction of access to live parts operating at 750 volts or less and likely to require examination, adjustment, servicing, or maintenance while alive shall not be less than indicated in Table I-1. In addition to the dimensions shown in Table I-1, workspace shall not be less than 30 inches (762 mm) wide in front of the electric equipment. Distances shall be measured from the live parts if they are exposed, or from the enclosure front or opening if the live parts are enclosed. Walls constructed of concrete, brick, or tile are considered to be grounded. Working space is not required in back of assemblies such as dead-front switchboards or motor control centers where there are no renewable or adjustable parts such as fuses or switches on the back and where all connections are accessible from locations other than the back.

Table I-1
Working Clearances

Nominal Voltage to Ground	Minimum Clear Distance for Conditions ¹		
	(a)	(b)	(c)
	Feet ²	Feet ²	Feet ²
0-150.....	3	3	3
151-750.....	3	3 1/2	4

¹Conditions (a), (b), and (c) are as follows: (a) Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by insulating material. Insulated wire or insulated busbars operating at not over 300 volts are not considered live parts. (b) Exposed live parts on one side and grounded parts on the other side. (c) Exposed live parts on both sides of the workspace not guarded provided in condition (a) with the operator between.

²Note—For International System of Units (SI): One foot=0.3048m.

(ii) Clear spaces. Working space required by this part shall not be used for storage. When normally enclosed live parts are exposed for inspection or servicing, the working space, if in a passageway or general open space, shall be guarded.

(iii) Access and entrance to working space. At least one entrance shall be provided to give access to the working space about electric equipment.

(iv) Front working space. Where there are live parts normally exposed on the front of switchboards or motor control centers, the working space in front of such equipment shall not be less than 3 feet (914 mm).

(v) Headroom. The minimum headroom of working spaces about service equipment, switchboards, panelboards, or motor control centers shall be 6 feet 3 inches (1.91 m).

(b) Guarding of live parts.

(i) Except as required or permitted elsewhere in this part, live parts of electric equipment operating at 50 volts or more shall be guarded against accidental contact by cabinets or other forms of enclosures, or by any of the following means:

(A) By location in a room, vault, or similar enclosure that is accessible only to qualified persons.

(B) By partitions or screens so arranged that only qualified persons will have access to the space within reach of the live parts. Any openings in such partitions or screens shall be so sized and located that persons are not likely to come into accidental contact with the live parts or to bring conducting objects into contact with them.

(C) By location on a balcony, gallery, or platform so elevated and arranged as to exclude unqualified persons.

(D) By elevation of 8 feet (2.44 m) or more above the floor or other working surface and so installed as to exclude unqualified persons.

(ii) In locations where electric equipment would be exposed to physical damage, enclosures or guards shall be so arranged and of such strength as to prevent such damage.

(iii) Entrances to rooms and other guarded locations containing exposed live parts shall be marked with conspicuous warning signs forbidding unqualified persons to enter.

(11) Over 750 volts, nominal.

(a) General. Conductors and equipment used on circuits exceeding 750 volts, nominal, shall comply with all applicable provisions of subsections (1) through (7) of this section and with the following provisions which supplement or modify those requirements. The provisions of (b), (c), and (d) of this subsection do not apply to equipment on the supply side of the service conductors.

(b) Enclosure for electrical installations. Electrical installations in a vault, room, closet or in an area surrounded by a wall, screen, or fence, access to which is controlled by lock and key or other equivalent means, are considered to be accessible to qualified persons only. A wall, screen, or fence less than 8 feet (2.44 m) in height is not considered adequate to prevent access unless it has other features that provide a degree of isolation equivalent to an 8 foot (2.44 m) fence. The entrances to all buildings, rooms or enclosures containing exposed live parts or exposed conductors operating at over 750 volts, nominal, shall be kept locked or shall be under the observation of a qualified person at all times.

(i) Installations accessible to qualified persons only. Electrical installations having exposed live parts shall be accessible to qualified

persons only and shall comply with the applicable provisions of (c) of this subsection.

(ii) Installations accessible to unqualified persons. Electrical installations that are open to unqualified persons shall be made with metal-enclosed equipment or shall be enclosed in a vault or in an area, access to which is controlled by a lock. Metal-enclosed switchgear, unit substations, transformers, pull boxes, connection boxes, and other similar associated equipment shall be marked with appropriate caution signs. If equipment is exposed to physical damage from vehicular traffic, guards shall be provided to prevent such damage. Ventilating or similar openings in metal-enclosed equipment shall be designed so that foreign objects inserted through these openings will be deflected from energized parts.

(c) Workspace about equipment. Sufficient space shall be provided and maintained about electric equipment to permit ready and safe operation and maintenance of such equipment. Where energized parts are exposed, the minimum clear workspace shall not be less than 6 feet 6 inches (1.98 m) high (measured vertically from the floor or platform,) or less than 3 feet (914 mm) wide (measured parallel to the equipment.) The depth shall be as required in Table I-2. The workspace shall be adequate to permit at least a ninety degree opening of doors or hinged panels.

(i) Working space. The minimum clear working space in front of electric equipment such as switchboards, control panels, switches, circuit breakers, motor controllers, relays, and similar equipment shall not be less than specified in Table I-2 unless otherwise specified in this part. Distances shall be measured from the live parts if they are exposed, or from the enclosure front or opening if the live parts are enclosed. However, working space is not required in back of equipment such as deadfront switchboards or control assemblies where there are no renewable or adjustable parts (such as fuses or switches) on the back and where all connections are accessible from locations other than the back. Where rear access is required to work on de-energized parts on the back of enclosed equipment, a minimum working space of 30 inches (762 mm) horizontally shall be provided.

Table I-2
Minimum Depth of Clear Working Space in Front of Electric Equipment

Nominal Voltage to Ground	Minimum Clear Distance for Conditions ¹		
	(a)	(b)	(c)
Feet ²	Feet ²	Feet ²	
751 to 2,500	3	4	5
2,501 to 9,000	4	5	6
9,001 to 25,000	5	6	9
25,001 to 75kV	6	8	10
Above 75kV	8	10	12

¹ Conditions (a), (b), and (c) are as follows: (a) Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by insulating materials. Insulated wire or insulated busbars operating at not over 300 volts are not considered live parts. (b) Exposed live parts on one side and grounded parts on the other side. Walls constructed of concrete, brick, or the tile are considered to be grounded surfaces. (c) Exposed live parts on both sides of the workspace (not guarded as provided in Condition (a)) with the operator between.

²Note—For S1 units: One foot=0.3048m.

(ii) Lighting outlets and points of control. The lighting outlets shall be so arranged that persons changing lamps or making repairs on the lighting system will not be endangered by live parts or other equipment. The points of control shall be so located that persons are not likely to come in contact with any live part or moving part of the equipment while turning on the lights.

(iii) Elevation of unguarded live parts. Unguarded live parts above working space shall be maintained at elevations not less than specified in Table I-3.

Table I-3
Elevation of Unguarded Energized Parts Above Working Space

Nominal Voltage to Between Phases	Minimum Elevation
751, 7,500	8 feet 6 inches ¹
7,501 to 35,000	9 feet
Over 35kV	9 feet + 0.37 inches per kV above 35kV

¹ Note—For S1 units: One inch=25.4mm, one foot=0.3048m.

(d) Entrance and access to workspace. At least one entrance not less than 24 inches (610 mm) wide and 6 feet 6 inches (1.98 m) high shall be provided to give access to the working space about electric equipment. On switchboard and control panels exceeding 48 inches (1.22 m) in width, there shall be one entrance at each end of such board where practicable. Where bare energized parts at any voltage or insulated energized parts above 750 volts are located adjacent to such entrance, they shall be guarded.

(12) Welding and cutting equipment. Welding and cutting equipment shall meet the requirements specified in Parts D and H of this chapter.

NEW SECTION

WAC 296-155-447 WIRING DESIGN AND PROTECTION.

(1) Use and identification of grounded and grounding conductors.

(a) Identification of conductors. A conductor used as a grounded conductor shall be identifiable and distinguishable from all other conductors. A conductor used as an equipment grounding conductor shall be identifiable and distinguishable from all other conductors.

(b) Polarity of connections. No grounded conductor shall be attached to any terminal or lead so as to reverse designated polarity.

(c) Use of grounding terminals and devices. A grounding terminal or grounding-type device on a receptacle, cord connector, or attachment plug shall not be used for purposes other than grounding.

(2) Branch circuits.

(a) Ground-fault protection.

(i) General. The employer shall use either ground-fault circuit interrupters as specified in (a)(ii) of this subsection or an assured equipment grounding conductor program as specified in (a)(iii) of this subsection to protect employees on construction sites. These requirements are in addition to any other requirements for equipment grounding conductors.

(ii) Ground-fault circuit interrupters. All 120-volt, single-phase, 15-ampere and 20-ampere receptacle outlets on construction sites, which are not a part of the permanent wiring of the building or structure and which are in use by employees, shall have approved ground-fault circuit interrupters for personnel protection. Receptacles on a two-wire, single-phase portable or vehicle-mounted generator rated not more than 5kW, where the circuit conductors of the generator are insulated from the generator frame and all other grounded surfaces, need not be protected with ground-fault circuit interrupters.

(iii) Assured equipment grounding conductor program. The employer shall establish and implement an assured equipment grounding conductor program on construction sites covering all cord sets, receptacles which are not a part of the building or structure, and equipment connected by cord and plug which are available for use or used by employees. This program shall comply with the following minimum requirements:

(A) A written description of the program, including the specific procedures adopted by the employer, shall be available at the jobsite for inspection and copying by the director and any affected employee.

(B) The employer shall designate one or more competent persons (as defined in WAC 296-155-012(4)) to implement the program, and to perform continuing tests and inspections as required.

(C) Each cord set, attachment cap, plug and receptacle of cord sets, and any equipment connected by cord and plug, except cord sets and receptacles which are fixed and not exposed to damage, shall be visually inspected before each day's use for external defects, such as deformed or missing pins or insulation damage, and for indications of possible internal damage. Equipment found damaged or defective shall not be used until repaired.

(D) The following tests shall be performed on all cord sets, receptacles which are not a part of the permanent wiring of the building or structure, and cord-connected and plug-connected equipment required to be grounded:

(I) All equipment grounding conductors shall be tested for continuity and shall be electrically continuous.

(II) Each receptacle and attachment cap or plug shall be tested for correct attachment of the equipment grounding conductor. The equipment grounding conductor shall be connected to its proper terminal.

(III) Each outlet receptacle, or power source shall be tested to ensure proper polarity.

(E) All required tests shall be performed:

(I) Before first use;

(II) Before equipment is returned to service following any repairs;

(III) Before equipment is used after any incident which can be reasonably suspected to have caused damage (for example, when a cord set is run over); and

(IV) At intervals not to exceed 3 months, except that cord sets and receptacles which are fixed and not exposed to damage shall be tested at intervals not exceeding 6 months.

(F) The employer shall not make available or permit the use by employees of any equipment which has not met the requirements of (a)(iii) of this subsection.

(G) Tests performed as required in this subsection shall be recorded. This test record shall identify each receptacle, cord set, and cord-connected and plug-connected equipment that passed the test and shall indicate the last date it was tested or the interval for which it was tested. This record shall be kept by means of logs, color coding, or other effective means and shall be maintained until replaced by a more current record. The record shall be made available on the jobsite for inspection by the director and any affected employee.

(b) Outlet devices. Outlet devices shall have an ampere rating not less than the load to be served and shall comply with the following:

(i) Single receptacles. A single receptacle installed on an individual branch circuit shall have an ampere rating of not less than that of the branch circuit.

(ii) Two or more receptacles. Where connected to a branch circuit supplying two or more receptacles or outlets, receptacle ratings shall conform to the values listed in Table I-4.

(iii) Receptacles used for the connection of motors. The rating of an attachment plug or receptacle used for cord-connection and plug-connection of a motor to a branch circuit shall not exceed 15 amperes at 125 volts or 10 amperes at 250 volts if individual overload protection is omitted.

Table I-4
Receptacle Ratings for Various Size Circuits

Circuit Rating Amperes	Receptacle Rating Amperes
15	Not Over 15
20	15 or 20
30	30
40	40 or 50
50	50

(3) Outside conductors and lamps.

(a) 750 volts, nominal, or less. (a)(i) through (iv)(D) of this subsection apply to branch circuit, feeder, and service conductors rated 750 volts, nominal, or less and run outdoors as open conductors.

(i) Conductors on poles. Conductors supported on poles shall provide a horizontal climbing space not less than the following:

(A) Power conductors below communication conductors: 30 inches (762 mm).

(B) Power conductors alone or above communication conductors: 300 volts or less—24 inches (610 mm); more than 300 volts—30 inches (762 mm).

(C) Communication conductors below power conductors: With power conductors 300 volts or less—24 inches (610 mm); more than 300 volts—30 inches (762 mm).

(ii) Clearance from ground. Open conductors shall conform to the following minimum clearances:

(A) 10 feet (3.05 m)—above finished grade, sidewalks, or from any platform or projection from which they might be reached.

(B) 12 feet (3.66 m)—over areas subject to vehicular traffic other than truck traffic.

(C) 15 feet (4.57 m)—over areas other than those specified in (a)(ii)(D) of this subsection that are subject to truck traffic.

(D) 18 feet (5.49 m)—over public streets, alleys, roads, and driveways.

(iii) Clearance from building openings. Conductors shall have a clearance of at least 3 feet (914 mm) from windows, doors, fire escapes, or similar locations. Conductors run above the top level of a window are considered to be out of reach from that window and, therefore, do not have to be 3 feet (914 mm) away.

(iv) Clearance over roofs. Conductors above roof space accessible to employees on foot shall have a clearance from the highest point of the roof surface of not less than 8 feet (2.44 m) vertical clearance for insulated conductors, not less than 10 feet (3.05 m) vertical or diagonal clearance for covered conductors, and not less than 15 feet (4.57 m) for bare conductors, except that:

(A) Where the roof space is also accessible to vehicular traffic, the vertical clearance shall not be less than 18 feet (5.49 m); or

(B) Where the roof space is not normally accessible to employees on foot, fully insulated conductors shall have a vertical or diagonal clearance of not less than 3 feet (914 mm); or

(C) Where the voltage between conductors is 300 volts or less and the roof has a slope of not less than 4 inches (102 mm) in 12 inches (305 mm), the clearance from roofs shall be at least 3 feet (914 mm); or

(D) Where the voltage between conductors is 300 volts or less and the conductors do not pass over more than 4 feet (1.22 m) of the overhang portion of the roof and they are terminated at a through-the-roof raceway or support, the clearance from roofs shall be at least 18 inches (457 mm).

(b) Location of outdoor lamps. Lamps for outdoor lighting shall be located below all live conductors, transformers, or other electric equipment, unless such equipment is controlled by a disconnecting means that can be locked in the open position or unless adequate clearances or other safeguards are provided for relamping operations.

(4) Services.

(a) Disconnecting means.

(i) General. Means shall be provided to disconnect all conductors in a building or other structure from the service-entrance conductors. The disconnecting means shall plainly indicate whether it is in the open or closed position and shall be installed at a readily accessible location nearest the point of entrance of the service-entrance conductors.

(ii) Simultaneous opening of poles. Each service disconnecting means shall simultaneously disconnect all ungrounded conductors.

(b) Services over 750 volts, nominal. The following additional requirements apply to services over 750 volts, nominal.

(i) Guarding. Service-entrance conductors installed as open wires shall be guarded to make them accessible only to qualified persons.

(ii) Warning signs. Signs warning of high voltage shall be posted where unauthorized employees might come in contact with live parts.

(5) Overcurrent protection.

(a) 750 volts, nominal, or less. The following requirements apply to overcurrent protection of circuits rated 750 volts, nominal, or less.

(i) Protection of conductors and equipment. Conductors and equipment shall be protected from overcurrent in accordance with their ability to safely conduct current. Conductors shall have sufficient capacity to carry the load.

(ii) Grounded conductors. Except for motor-running overload protection, overcurrent devices shall not interrupt the continuity of the grounded conductor unless all conductors of the circuit are opened simultaneously.

(iii) Disconnection of fuses and thermal cutouts. Except for devices provided for current-limiting on the supply side of the service disconnecting means, all cartridge fuses which are accessible to other than qualified persons and all fuses and thermal cutouts on circuits over 150 volts to ground shall be provided with disconnecting means. This disconnecting means shall be installed so that the fuse or thermal cutout can be disconnected from its supply without disrupting service to equipment and circuits unrelated to those protected by the overcurrent device.

(iv) Location in or on premises. Overcurrent devices shall be readily accessible. Overcurrent devices shall not be located where they could create an employee safety hazard by being exposed to physical damage or located in the vicinity of easily ignitable material.

(v) Arcing or suddenly moving parts. Fuses and circuit breakers shall be so located or shielded that employees will not be burned or otherwise injured by their operation.

(vi) Circuit breakers.

(A) Circuit breakers shall clearly indicate whether they are in the open (off) or closed (on) position.

(B) Where circuit breaker handles on switchboards are operated vertically rather than horizontally or rotationally, the up position of the handle shall be the closed (on) position.

(C) If used as switches in 120-volt, fluorescent lighting circuits, circuit breakers shall be marked "SWD."

(b) Over 750 volts, nominal. Feeders and branch circuits over 750 volts, nominal, shall have short-circuit protection.

(6) Effective grounding. The path from circuits, equipment, structures, and conduit or enclosures to ground shall be permanent and continuous; have ample carrying capacity to conduct safely the currents liable to be imposed on it; and have the impedance sufficiently low to limit the potential above ground and to result in the operation of the overcurrent devices in the circuit. (a) through (k) of this subsection contain grounding requirements for systems, circuits, and equipment.

(a) Systems to be grounded. The following systems which supply premises wiring shall be grounded:

(i) Three-wire DC systems. All three-wire DC systems shall have their neutral conductor grounded.

(ii) Two-wire DC systems. Two-wire DC systems operating at over 50 volts through 300 volts between conductors shall be grounded unless they are rectifier-derived from an AC system complying with (a)(iii), (iv), and (v) of this subsection.

(iii) AC circuits, less than 50 volts. AC circuits of less than 50 volts shall be grounded if they are installed as overhead conductors outside of buildings or if they are supplied by transformers and the transformer primary supply system is ungrounded or exceeds 150 volts to ground.

(iv) AC systems, 50 volts to 1000 volts. AC systems of 50 volts to 1000 volts shall be grounded under any of the following conditions, unless exempted by (a)(v) of this subsection:

(A) If the system can be so grounded that the maximum voltage to ground on the ungrounded conductors does not exceed 150 volts;

(B) If the system is nominally rated 480Y/277 volt, 3-phase, 4-wire in which the neutral is used as a circuit conductor;

(C) If the system is nominally rated 240/120 volt, 3-phase, 4-wire in which the midpoint of one phase is used as a circuit conductor; or

(D) If a service conductor is uninsulated.

(v) Exceptions. AC systems of 50 volts to 1000 volts are not required to be grounded if the system is separately derived and is supplied by a transformer that has a primary voltage rating less than 1000 volts, provided all of the following conditions are met:

(A) The system is used exclusively for control circuits;

(B) The conditions of maintenance and supervision assure that only qualified persons will service the installation;

(C) Continuity of control power is required; and

(D) Ground detectors are installed on the control system.

(b) Separately derived systems. Where (a) of this subsection requires grounding of wiring systems whose power is derived from generator, transformer, or converter windings and has no direct electrical connection, including a solidly connected grounded circuit conductor, to supply conductors originating in another system, (e) of this subsection shall also apply.

(c) Portable and vehicle-mounted generators.

(i) Portable generators. Under the following conditions, the frame of a portable generator need not be grounded and may serve as the grounding electrode for a system supplied by the generator:

(A) The generator supplies only equipment mounted on the generator and/or cord-connected and plug-connected equipment through receptacles mounted on the generator; and

(B) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(ii) Vehicle-mounted generators. Under the following conditions the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(A) The frame of the generator is bonded to the vehicle frame; and

(B) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator; and

(C) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame; and

(D) The system complies with all other provisions of this section.

(iii) Neutral conductor bonding. A neutral conductor shall be bonded to the generator frame if the generator is a component of a separately derived system. No other conductor need be bonded to the generator frame.

(d) Conductors to be grounded. For AC premises wiring systems the identified conductor shall be grounded.

(e) Grounding connections.

(i) Grounded system. For a grounded system, a grounding electrode conductor shall be used to connect both the equipment grounding conductor and the grounded circuit conductor to the grounding electrode. Both the equipment grounding conductor and the grounding electrode conductor shall be connected to the grounded circuit conductor on the supply side of the service disconnecting means, or on the supply side of the system disconnecting means or overcurrent devices if the system is separately derived.

(ii) Ungrounded systems. For an ungrounded service-supplied system, the equipment grounding conductor shall be connected to the grounding electrode conductor at the service equipment. For an ungrounded separately derived system, the equipment grounding conductor shall be connected to the grounding electrode conductor at, or ahead of, the system disconnecting means or overcurrent devices.

(f) Grounding path. The path to ground from circuits, equipment, and enclosures shall be permanent and continuous.

(g) Supports, enclosures, and equipment to be grounded.

(i) Supports and enclosures for conductors. Metal cable trays, metal raceways, and metal enclosures for conductors shall be grounded, except that:

(A) Metal enclosures such as sleeves that are used to protect cable assemblies from physical damage need not be grounded; and

(B) Metal enclosures for conductors added to existing installations of open wire, knob-and-tube wiring, and nonmetallic-sheathed cable need not be grounded if all of the following conditions are met:

(I) Runs are less than 25 feet (7.62 m);

(II) Enclosures are free from probable contact with ground, grounded metal, metal laths, or other conductive materials; and

(III) Enclosures are guarded against employee contact.

(ii) Service equipment enclosures. Metal enclosures for service equipment shall be grounded.

(iii) Fixed equipment. Exposed noncurrent-carrying metal parts of fixed equipment which may become energized shall be grounded under any of the following conditions:

(A) If within 8 feet (2.44 m) vertically or 5 feet (1.52 m) horizontally of ground or grounded metal objects and subject to employee contact.

(B) If located in a wet or damp location and subject to employee contact.

(C) If in electrical contact with metal.

(D) If in a hazardous (classified) location.

(E) If supplied by a metal-clad, metal-sheathed, or grounded metal raceway wiring method.

(F) If equipment operates with any terminal at over 150 volts to ground; however, the following need not be grounded:

(I) Enclosures for switches or circuit breakers used for other than service equipment and accessible to qualified persons only;

(II) Metal frames of electrically heated appliances which are permanently and effectively insulated from ground; and

(III) The cases of distribution apparatus such as transformers and capacitors mounted on wooden poles at a height exceeding 8 feet (2.44 m) above ground or grade level.

(iv) Equipment connected by cord and plug. Under any of the conditions described in (g)(iv)(A) through (C) of this subsection, exposed noncurrent-carrying metal parts of cord-connected and plug-connected equipment which may become energized shall be grounded:

(A) If in a hazardous (classified) location (see WAC 296-155-444).

(B) If operated at over 150 volts to ground, except for guarded motors and metal frames of electrically heated appliances if the appliance frames are permanently and effectively insulated from ground.

(C) If the equipment is one of the types listed in (g)(iv)(C)(I) through (V) of this subsection. However, even though the equipment may be one of these types, it need not be grounded if it is exempted by (g)(iv)(C)(VI) of this subsection.

(I) Hand held motor-operated tools;

(II) Cord-connected and plug-connected equipment used in damp or wet locations or by employees standing on the ground or on metal floors or working inside of metal tanks or boilers;

(III) Portable and mobile x-ray and associated equipment;

(IV) Tools likely to be used in wet and/or conductive locations; and

(V) Portable hand lamps.

(VI) Tools likely to be used in wet and/or conductive locations need not be grounded if supplied through an isolating transformer with an ungrounded secondary of not over 50 volts. Listed or labeled portable tools and appliances protected by a system of double insulation, or its equivalent, need not be grounded. If such a system is employed, the equipment shall be distinctively marked to indicate that the tool or appliance utilizes a system of double insulation.

(v) Nonelectrical equipment. The metal parts of the following nonelectrical equipment shall be grounded: Frames and tracks of electrically operated cranes; frames of nonelectrically driven elevator cars to which electric conductors are attached; hand-operated metal shifting ropes or cables of electric elevators, and metal partitions, grill work, and similar metal enclosures around equipment of over 1kV between conductors.

(h) Methods of grounding equipment.

(i) With circuit conductors. Noncurrent-carrying metal parts of fixed equipment, if required to be grounded by this part, shall be grounded by an equipment grounding conductor which is contained within the same raceway, cable, or cord, or runs with or encloses the circuit conductors. For DC circuits only, the equipment grounding conductor may be run separately from the circuit conductors.

(ii) Grounding conductor. A conductor used for grounding fixed or movable equipment shall have capacity to conduct safely any fault current which may be imposed on it.

(iii) Equipment considered effectively grounded. Electric equipment is considered to be effectively grounded if it is secured to, and in electrical contact with, a metal rack or structure that is provided for its support and the metal rack or structure is grounded by the method specified for the noncurrent-carrying metal parts of fixed equipment in (h)(i) of this subsection. Metal car frames supported by metal hoisting cables attached to or running over metal sheaves or drums of grounded elevator machines are also considered to be effectively grounded.

(i) Bonding. (i) If bonding conductors are used to assure electrical continuity, they shall have the capacity to conduct any fault current which may be imposed.

(ii) When attaching bonding and grounding clamps or clips, a secure and positive metal-to-metal contact shall be made. Such attachments shall be made before closures are opened and material movements are started and shall not be broken until after material movements are stopped and closures are made.

(j) Made electrodes. If made electrodes are used, they shall be free from nonconductive coatings, such as paint or enamel; and, if practicable, they shall be embedded below permanent moisture level. A single electrode consisting of a rod, pipe or plate which has a resistance to ground greater than 25 ohms shall be augmented by one additional electrode installed no closer than 6 feet (1.83 m) to the first electrode.

(k) Grounding of systems and circuits of 1000 volts and over (high voltage).

(i) General. If high voltage systems are grounded, they shall comply with all applicable provisions of (a) through (j) of this subsection as supplemented and modified by (k) of this subsection.

(ii) Grounding of systems supplying portable or mobile equipment. Systems supplying portable or mobile high voltage equipment, other than substations installed on a temporary basis, shall comply with the following:

(A) Portable and mobile high voltage equipment shall be supplied from a system having its neutral grounded through an impedance. If a delta-connected high voltage system is used to supply the equipment, a system neutral shall be derived.

(B) Exposed noncurrent-carrying metal parts of portable and mobile equipment shall be connected by an equipment grounding conductor to the point at which the system neutral impedance is grounded.

(C) Ground-fault detection and relaying shall be provided to automatically deenergize any high voltage system component which has developed a ground fault. The continuity of the equipment grounding conductor shall be continuously monitored so as to de-energize automatically the high voltage feeder to the portable equipment upon loss of continuity of the equipment grounding conductor.

(D) The grounding electrode to which the portable or mobile equipment system neutral impedance is connected shall be isolated from and separated in the ground by at least 20 feet (6.1 m) from any other

system or equipment grounding electrode, and there shall be no direct connection between the grounding electrodes, such as buried pipe, fence or like objects.

(iii) Grounding of equipment. All noncurrent-carrying metal parts of portable equipment and fixed equipment including their associated fences, housings, enclosures, and supporting structures shall be grounded. However, equipment which is guarded by location and isolated from ground need not be grounded. Additionally, pole-mounted distribution apparatus at a height exceeding 8 feet (2.44 m) above ground or grade level need not be grounded.

NEW SECTION

WAC 296-155-449 WIRING METHODS, COMPONENTS, AND EQUIPMENT FOR GENERAL USE. (1) Wiring methods. The provisions of this subsection do not apply to conductors which form an integral part of equipment such as motors, controllers, motor control centers and like equipment.

(a) General requirements.

(i) Electrical continuity of metal raceways and enclosures. Metal raceways, cable armor, and other metal enclosures for conductors shall be metallically joined together into a continuous electric conductor and shall be so connected to all boxes, fittings, and cabinets as to provide effective electrical continuity.

(ii) Wiring in ducts. No wiring systems of any type shall be installed in ducts used to transport dust, loose stock or flammable vapors. No wiring system of any type shall be installed in any duct used for vapor removal or in any shaft containing only such ducts.

(iii) Receptacles for attachment plugs shall be approved, concealed contact type with a contact for extending ground continuity and shall be so designed and constructed that the plug may be pulled out without leaving any live parts exposed to accidental contact. All temporary outlet boxes shall be of a type suitable for use in wet or damp locations.

(iv) Attachment plugs or other connectors supplying equipment at more than 300 volts shall be of the skirted type or otherwise so designed that arcs will be confined.

(b) Temporary wiring.

(i) Scope. The provisions of (b) of this subsection apply to temporary electrical power and lighting wiring methods which may be of a class less than would be required for a permanent installation. Except as specifically modified in (b) of this subsection, all other requirements of this part for permanent wiring shall apply to temporary wiring installations. Temporary wiring shall be removed immediately upon completion of construction or the purpose for which the wiring was installed.

(ii) General requirements for temporary wiring.

(A) Feeders shall originate in a distribution center. The conductors shall be run as multiconductor cord or cable assemblies or within raceways; or, where not subject to physical damage, they may be run as open conductors on insulators not more than 10 feet (3.05 m) apart.

(B) Branch circuits shall originate in a power outlet or panelboard. Conductors shall be run as multiconductor cord or cable assemblies or open conductors, or shall be run in raceways. All conductors shall be protected by overcurrent devices at their ampacity. Runs of open conductors shall be located where the conductors will not be subject to physical damage, and the conductors shall be fastened at intervals not exceeding 10 feet (3.05 m). No branch-circuit conductors shall be laid on the floor. Each branch circuit that supplies receptacles or fixed equipment shall contain a separate equipment grounding conductor if the branch circuit is run as open conductors.

(C) Receptacles shall be of the grounding type. Unless installed in a complete metallic raceway, each branch circuit shall contain a separate equipment grounding conductor, and all receptacles shall be electrically connected to the grounding conductor. Receptacles for uses other than temporary lighting shall not be installed on branch circuits which supply temporary lighting. Receptacles shall not be connected to the same ungrounded conductor of multiwire circuits which supply temporary lighting.

(D) Disconnecting switches or plug connectors shall be installed to permit the disconnection of all ungrounded conductors of each temporary circuit.

(E) Temporary lights shall be protected by guards of a nonconductive or insulated material to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(F) Temporary lights shall be equipped with hard usage (S or SJ types) electric cords with connections and insulation maintained in safe

condition. "Brewery" cord (type CBO or NB) may be substituted for hard usage cord provided it is protected from physical damages. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices shall retain the insulation, outer sheath properties, flexibility, and usage characteristics of the cord being spliced.

When pin-type connectors or lampholders are utilized, the area of perforations caused by lampholder removal shall be restored to the insulation capabilities of the cord.

(G) Portable electric lighting used in wet and/or other conductive locations, as for example, drums, tanks, and vessels, shall be operated at 12 volts or less. However, 120-volt lights may be used if protected by a ground-fault circuit interrupter.

(H) A box shall be used wherever a change is made to a raceway system or a cable system which is metal clad or metal sheathed.

(I) Flexible cords and cables shall be protected from damage. Sharp corners and projections shall be avoided. Flexible cords and cables may pass through doorways or other pinch points, if protection is provided to avoid damage.

(J) Extension cord sets used with portable electric tools and appliances shall be of three-wire type and shall be designed for hard or extra-hard usage. Flexible cords used with temporary and portable lights shall be designed for hard or extra-hard usage.

Note: The National Electrical Code, ANSI/NFPA 70, in Article 400, Table 400-4, lists various types of flexible cords, some of which are noted as being designed for hard or extra-hard usage. Examples of these types of flexible cords include hard service cord (types S, ST, SO, STO) and junior hard service cord (types SJ, SJO, SJT, SJTO).

(iii) Guarding. For temporary wiring over 750 volts, nominal, fencing, barriers, or other effective means shall be provided to prevent access of other than authorized and qualified personnel.

(2) Cabinets, boxes, and fittings.

(a) Conductors entering boxes, cabinets, or fittings. Conductors entering boxes, cabinets, or fittings shall be protected from abrasion, and openings through which conductors enter shall be effectively closed. Unused openings in cabinets, boxes, and fittings shall also be effectively closed.

(b) Covers and canopies. All pull boxes, junction boxes, and fittings shall be provided with covers. If metal covers are used, they shall be grounded. In energized installations each outlet box shall have a cover, faceplate, or fixture canopy. Covers of outlet boxes having holes through which flexible cord pendants pass shall be provided with bushings designed for the purpose or shall have smooth, well-rounded surfaces on which the cords may bear.

(c) Pull and junction boxes for systems over 750 volts, nominal. In addition to other requirements in this section for pull and junction boxes, the following shall apply to these boxes for systems over 750 volts, nominal:

(i) Complete enclosure. Boxes shall provide a complete enclosure for the contained conductors or cables.

(ii) Covers. Boxes shall be closed by covers securely fastened in place. Underground box covers that weigh over 100 pounds (43.6 kg) meet this requirement. Covers for boxes shall be permanently marked "HIGH VOLTAGE." The marking shall be on the outside of the box cover and shall be readily visible and legible.

(3) Knife switches. Single-throw knife switches shall be so connected that the blades are dead when the switch is in the open position. Single-throw knife switches shall be so placed that gravity will not tend to close them. Single-throw knife switches approved for use in the inverted position shall be provided with a locking device that will ensure that the blades remain in the open position when so set. Double-throw knife switches may be mounted so that the throw will be either vertical or horizontal. However, if the throw is vertical, a locking device shall be provided to ensure that the blades remain in the open position when so set.

(4) Switchboards and panelboards. Switchboards that have any exposed live parts shall be located in permanently dry locations and accessible only to qualified persons. Panelboards shall be mounted in cabinets, cutout boxes, or enclosures designed for the purpose and shall be dead front. However, panelboards other than the dead front externally-operable type are permitted where accessible only to qualified persons. Exposed blades of knife switches shall be dead when open.

(5) Enclosures for damp or wet locations.

(a) Cabinets, fittings, and boxes. Cabinets, cutout boxes, fittings, boxes, and panelboard enclosures in damp or wet locations shall be installed so as to prevent moisture or water from entering and accumulating within the enclosures. In wet locations the enclosures shall be weatherproof.

(b) Switches and circuit breakers. Switches, circuit breakers, and switchboards installed in wet locations shall be enclosed in weather-proof enclosures.

(6) Conductors for general wiring. All conductors used for general wiring shall be insulated unless otherwise permitted in this part. The conductor insulation shall be of a type that is suitable for the voltage, operating temperature, and location of use. Insulated conductors shall be distinguishable by appropriate color or other means as being grounded conductors, ungrounded conductors, or equipment grounding conductors.

(7) Flexible cords and cables.

(a) Use of flexible cords and cables.

(i) Permitted uses. Flexible cords and cables shall be suitable for conditions of use and location. Flexible cords and cables shall be used only for:

(A) Pendants;

(B) Wiring of fixtures;

(C) Connection of portable lamps or appliances;

(D) Elevator cables;

(E) Wiring of cranes and hoists;

(F) Connection of stationary equipment to facilitate their frequent interchange;

(G) Prevention of the transmission of noise or vibration; or

(H) Appliances where the fastening means and mechanical connections are designed to permit removal for maintenance and repair.

(ii) Attachment plugs for cords. If used as permitted in (a)(i)(C), (F), or (H) of this subsection, the flexible cord shall be equipped with an attachment plug and shall be energized from a receptacle outlet.

(iii) Prohibited uses. Unless necessary for a use permitted in (a)(i) of this subsection, flexible cords and cables shall not be used:

(A) As a substitute for the fixed wiring of a structure;

(B) Where run through holes in walls, ceilings, or floors;

(C) Where run through doorways, windows, or similar openings, except as permitted in subsection (1)(b)(ii)(I) of this section;

(D) Where attached to building surfaces; or

(E) Where concealed behind building walls, ceilings, or floors.

(b) Identification, splices, and terminations.

(i) Identification. A conductor of a flexible cord or cable that is used as a grounded conductor or an equipment grounding conductor shall be distinguishable from other conductors.

(ii) Marking. Type SJ, SJO, SJT, SJTO, S, SO, ST, and STO cords shall not be used unless durably marked on the surface with the type designation, size, and number of conductors.

(iii) Splices. Flexible cords shall be used only in continuous lengths without splice or tap. Hard service flexible cords No. 12 or larger may be repaired if spliced so that the splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.

(iv) Strain relief. Flexible cords shall be connected to devices and fittings so that strain relief is provided which will prevent pull from being directly transmitted to joints or terminal screws.

(v) Cords passing through holes. Flexible cords and cables shall be protected by bushings or fittings where passing through holes in covers, outlet boxes, or similar enclosures.

(vi) Trailing cables shall be protected from damage.

(vii) Cord and cable passing through work areas shall be covered or elevated to protect it from damage which would create a hazard to employees.

(8) Portable cables over 750 volts, nominal. Multiconductor portable cable for use in supplying power to portable or mobile equipment at over 750 volts, nominal, shall consist of No. 8 or larger conductors employing flexible stranding. Cables operated at over 2000 volts shall be shielded for the purpose of confining the voltage stresses to the insulation. Grounding conductors shall be provided. Connectors for these cables shall be of a locking type with provisions to prevent their opening or closing while energized. Strain relief shall be provided at connections and terminations. Portable cables shall not be operated with splices unless the splices are of the permanent molded, vulcanized, or other equivalent type. Termination enclosures shall be marked with a high voltage hazard warning, and terminations shall be accessible only to authorized and qualified personnel.

(9) Fixture wires.

(a) General. Fixture wires shall be suitable for the voltage, temperature, and location of use. A fixture wire which is used as a grounded conductor shall be identified.

(b) Uses permitted. Fixture wires may be used:

(i) For installation in lighting fixtures and in similar equipment where enclosed or protected and not subject to bending or twisting in use; or

(ii) For connecting lighting fixtures to the branch-circuit conductors supplying the fixtures.

(c) Uses not permitted. Fixture wires shall not be used as branch-circuit conductors except as permitted for Class 1 power-limited circuits.

(10) Equipment for general use.

(a) Lighting fixtures, lampholders, lamps, and receptacles.

(i) Live parts. Fixtures, lampholders, lamps, rosettes, and receptacles shall have no live parts normally exposed to employee contact. However, rosettes and cleat-type lampholders and receptacles located at least 8 feet (2.44 m) above the floor may have exposed parts.

(ii) Support. Fixtures, lampholders, rosettes, and receptacles shall be securely supported. A fixture that weighs more than 6 pounds (2.72 kg) or exceeds 16 inches (406 mm) in any dimension shall not be supported by the screw shell of a lampholder.

(iii) Portable lamps. Portable lamps shall be wired with flexible cord and an attachment plug of the polarized or grounding type. If the portable lamp uses an Edison-based lampholder, the grounded conductor shall be identified and attached to the screw shell and the identified blade of the attachment plug. In addition, portable handlamps shall comply with the following:

(A) Metal shell, paperlined lampholders shall not be used;

(B) Handlamps shall be equipped with a handle of molded composition or other insulating material;

(C) Handlamps shall be equipped with a substantial guard attached to the lampholder or handle;

(D) Metallic guards shall be grounded by the means of an equipment grounding conductor run within the power supply cord.

(iv) Lampholders. Lampholders of the screw-shell type shall be installed for use as lampholders only. Lampholders installed in wet or damp locations shall be of the weatherproof type.

(v) Fixtures. Fixtures installed in wet or damp locations shall be identified for the purpose and shall be installed so that water cannot enter or accumulate in wireways, lampholders, or other electrical parts.

(b) Receptacles, cord connectors, and attachment plugs (caps).

(i) Configuration. Receptacles, cord connectors, and attachment plugs shall be constructed so that no receptacle or cord connector will accept an attachment plug with a different voltage or current rating than that for which the device is intended. However, a 20-ampere T-slot receptacle or cord connector may accept a 15-ampere attachment plug of the same voltage rating. Receptacles connected to circuits having different voltages, frequencies, or types of current (AC or DC) on the same premises shall be of such design that the attachment plugs used on these circuits are not interchangeable.

(ii) Damp and wet locations. A receptacle installed in a wet or damp location shall be designed for the location.

(c) Appliances.

(i) Live parts. Appliances, other than those in which the current-carrying parts at high temperatures are necessarily exposed, shall have no live parts normally exposed to employee contact.

(ii) Disconnecting means. A means shall be provided to disconnect each appliance.

(iii) Rating. Each appliance shall be marked with its rating in volts and amperes or volts and watts.

(d) Motors. This subdivision applies to motors, motor circuits, and controllers.

(i) In sight from. If specified that one piece of equipment shall be "in sight from" another piece of equipment, one shall be visible and not more than 50 feet (15.2 m) from the other.

(ii) Disconnecting means.

(A) A disconnecting means shall be located in sight from the controller location. The controller disconnecting means for motor branch circuits over 750 volts, nominal, may be out of sight of the controller, if the controller is marked with a warning label giving the location and identification of the disconnecting means which is to be locked in the open position.

(B) The disconnecting means shall disconnect the motor and the controller from all ungrounded supply conductors and shall be so designed that no pole can be operated independently.

(C) If a motor and the driven machinery are not in sight from the controller location, the installation shall comply with one of the following conditions:

(I) The controller disconnecting means shall be capable of being locked in the open position.

(II) A manually operable switch that will disconnect the motor from its source of supply shall be placed in sight from the motor location.

(D) The disconnecting means shall plainly indicate whether it is in the open (off) or closed (on) position.

(E) The disconnecting means shall be readily accessible. If more than one disconnect is provided for the same equipment, only one need be readily accessible.

(F) An individual disconnecting means shall be provided for each motor, but a single disconnecting means may be used for a group of motors under any one of the following conditions:

(I) If a number of motors drive special parts of a single machine or piece of apparatus, such as a metal or woodworking machine, crane, or hoist;

(II) If a group of motors is under the protection of one set of branch-circuit protective devices; or

(III) If a group of motors is in a single room in sight from the location of the disconnecting means.

(iii) Motor overload, short-circuit, and ground-fault protection. Motors, motor-control apparatus, and motor branch-circuit conductors shall be protected against overheating due to motor overloads or failure to start, and against short-circuits or ground faults. These provisions do not require overload protection that will stop a motor where a shutdown is likely to introduce additional or increased hazards, as in the case of fire pumps, or where continued operation of a motor is necessary for a safe shutdown of equipment or process and motor overload sensing devices are connected to a supervised alarm.

(iv) Protection of live parts—all voltages.

(A) Stationary motors having commutators, collectors, and brush rigging located inside of motor end brackets and not conductively connected to supply circuits operating at more than 150 volts to ground need not have such parts guarded. Exposed live parts of motors and controllers operating at 50 volts or more between terminals shall be guarded against accidental contact by any of the following:

(I) By installation in a room or enclosure that is accessible only to qualified persons;

(II) By installation on a balcony, gallery, or platform, so elevated and arranged as to exclude unqualified persons; or

(III) By elevation 8 feet (2.44 m) or more above the floor.

(B) Where live parts of motors or controllers operating at over 150 volts to ground are guarded against accidental contact only by location, and where adjustment or other attendance may be necessary during the operation of the apparatus, insulating mats or platforms shall be provided so that the attendant cannot readily touch live parts unless standing on the mats or platforms.

(e) Transformers.

(i) Application. The following subsections cover the installation of all transformers, except:

(A) Current transformers;

(B) Dry-type transformers installed as a component part of other apparatus;

(C) Transformers which are an integral part of an x-ray, high frequency, or electrostatic-coating apparatus;

(D) Transformers used with Class 2 and Class 3 circuits, sign and outline lighting, electric discharge lighting, and power-limited fire-protective signaling circuits.

(E) Transformers mounted on utility poles at a height of more than 12 feet from the ground are exempt from the requirements of this subsection.

(ii) Operating voltage. The operating voltage of exposed live parts of transformer installations shall be indicated by warning signs or visible markings on the equipment or structure.

(iii) Transformers over 35 kV. Dry-type, high fire point liquid-insulated, and askarel-insulated transformers installed indoors and rated over 35 kV shall be in a vault.

(iv) Oil-insulated transformers. If they present a fire hazard to employees, oil-insulated transformers installed indoors shall be in a vault.

(v) Fire protection. Combustible material, combustible buildings and parts of buildings, fire escapes, and door and window openings shall be safeguarded from fires which may originate in oil-insulated transformers attached to or adjacent to a building or combustible material.

(vi) Transformer vaults. Transformer vaults shall be constructed so as to contain fire and combustible liquids within the vault and to prevent unauthorized access. Locks and latches shall be so arranged that a vault door can be readily opened from the inside.

(vii) Pipes and ducts. Any pipe or duct system foreign to the vault installation shall not enter or pass through a transformer vault.

(viii) Material storage. Materials shall not be stored in transformer vaults.

(f) Capacitors.

(i) Drainage of stored charge. All capacitors, except surge capacitors or capacitors included as a component part of other apparatus, shall be provided with an automatic means of draining the stored charge and maintaining the discharged state after the capacitor is disconnected from its source of supply.

(ii) Over 750 volts. Capacitors rated over 750 volts, nominal, shall comply with the following additional requirements:

(A) Isolating or disconnecting switches (with no interrupting rating) shall be interlocked with the load interrupting device or shall be provided with prominently displayed caution signs to prevent switching load current.

(B) For series capacitors the proper switching shall be assured by use of at least one of the following:

- (I) Mechanically sequenced isolating and bypass switches;
- (II) Interlocks; or
- (III) Switching procedure prominently displayed at the switching location.

NEW SECTION

WAC 296-155-452 SPECIFIC PURPOSE EQUIPMENT AND INSTALLATIONS. (1) Cranes and hoists. This subsection applies to the installation of electric equipment and wiring used in connection with cranes, monorail hoists, hoists, and all runways.

(a) Disconnecting means.

(i) Runway conductor disconnecting means. A readily accessible disconnecting means shall be provided between the runway contact conductors and the power supply.

(ii) Disconnecting means for cranes and monorail hoists. A disconnecting means, capable of being locked in the open position, shall be provided in the leads from the runway contact conductors or other power supply on any crane or monorail hoist.

(A) If this additional disconnecting means is not readily accessible from the crane or monorail hoist operating station, means shall be provided at the operating station to open the power circuit to all motors of the crane or monorail hoist.

(B) The additional disconnect may be omitted if a monorail hoist or hand-propelled crane bridge installation meets all of the following:

- (I) The unit is floor controlled;
- (II) The unit is within view of the power supply disconnecting means; and
- (III) No fixed work platform has been provided for servicing the unit.

(b) Control. A limit switch or other device shall be provided to prevent the load block from passing the safe upper limit of travel of any hoisting mechanism.

(c) Clearance. The dimension of the working space in the direction of access to live parts which may require examination, adjustment, servicing, or maintenance while alive shall be a minimum of 2 feet 6 inches (762 mm). Where controls are enclosed in cabinets, the door(s) shall open at least 90 degrees or be removable, or the installation shall provide equivalent access.

(d) Grounding. All exposed metal parts of cranes, monorail hoists, hoists and accessories including pendant controls shall be metallically joined together into a continuous electrical conductor so that the entire crane or hoist will be grounded in accordance with WAC 296-155-434(6). Moving parts, other than removable accessories or attachments, having metal-to-metal bearing surfaces shall be considered to be electrically connected to each other through the bearing surfaces for grounding purposes. The trolley frame and bridge frame shall be considered as electrically grounded through the bridge and trolley wheels and its respective tracks unless conditions such as paint or other insulating materials prevent reliable metal-to-metal contact. In this case a separate bonding conductor shall be provided.

(2) Elevators, escalators, and moving walks.

(a) Disconnecting means. Elevators, escalators, and moving walks shall have a single means for disconnecting all ungrounded main power supply conductors for each unit.

(b) Control panels. If control panels are not located in the same space as the drive machine, they shall be located in cabinets with doors or panels capable of being locked closed.

(3) Electric welders—disconnecting means.

(a) Motor-generator, AC transformer, and DC rectifier arc welders. A disconnecting means shall be provided in the supply circuit for each motor-generator arc welder, and for each AC transformer and DC rectifier arc welder which is not equipped with a disconnect mounted as an integral part of the welder.

(b) Resistance welders. A switch or circuit breaker shall be provided by which each resistance welder and its control equipment can be isolated from the supply circuit. The ampere rating of this disconnecting means shall not be less than the supply conductor ampacity.

(4) X-ray equipment.

(a) Disconnecting means.

(i) General. A disconnecting means shall be provided in the supply circuit. The disconnecting means shall be operable from a location readily accessible from the x-ray control. For equipment connected to a 120-volt branch circuit of 30 amperes or less, a grounding-type attachment plug cap and receptacle of proper rating may serve as a disconnecting means.

(ii) More than one piece of equipment. If more than one piece of equipment is operated from the same high-voltage circuit, each piece or each group of equipment as a unit shall be provided with a high-voltage switch or equivalent disconnecting means. This disconnecting means shall be constructed, enclosed, or located so as to avoid contact by employees with its live parts.

(b) Control-radiographic and fluoroscopic types. Radiographic and fluoroscopic-type equipment shall be effectively enclosed or shall have interlocks that deenergize the equipment automatically to prevent ready access to live current-carrying parts.

NEW SECTION

WAC 296-155-456 HAZARDOUS (CLASSIFIED) LOCATIONS. (1) Scope. This section sets forth requirements for electric equipment and wiring in locations which are classified depending on the properties of the flammable vapors, liquids or gases, or combustible dusts or fibers which may be present therein and the likelihood that a flammable or combustible concentration or quantity is present. Each room, section or area shall be considered individually in determining its classification. These hazardous (classified) locations are assigned six designations as follows: Class I, Division 1; Class I, Division 2; Class II, Division 1; Class II, Division 2; Class III, Division 1; Class III, Division 2. For definitions of these locations see WAC 296-155-428. All applicable requirements in this part apply to all hazardous (classified) locations, unless modified by provisions of this section.

(a) All components and utilization equipment used in a hazardous location shall be chosen from among those listed by a nationally recognized testing laboratory, such as Underwriters' Laboratories, Inc., or Factory Mutual Engineering Corp., except custom-made components and utilization equipment.

(b) Equipment approved for a specific hazardous location shall not be installed or intermixed with equipment approved for another specific hazardous location.

(2) Electrical installations. Equipment, wiring methods, and installations of equipment in hazardous (classified) locations shall be approved as intrinsically safe or approved for the hazardous (classified) location or safe for the hazardous (classified) location. Requirements for each of these options are as follows:

(a) Intrinsically safe. Equipment and associated wiring approved as intrinsically safe is permitted in any hazardous (classified) location included in its listing or labeling.

(b) Approved for the hazardous (classified) location.

(i) General. Equipment shall be approved not only for the class of location but also for the ignitable or combustible properties of the specific gas, vapor, dust, or fiber that will be present.

Note: NFPA 70, the National Electrical Code, lists or defines hazardous gases, vapors, and dusts by "groups" characterized by their ignitable or combustible properties.

(ii) Marking. Equipment shall not be used unless it is marked to show the class, group, and operating temperature or temperature range, based on operation in a 40°C ambient, for which it is approved. The temperature marking shall not exceed the ignition temperature of the specific gas, vapor, or dust to be encountered. However, the following provisions modify this marking requirement for specific equipment:

(A) Equipment of the nonheat-producing type (such as junction boxes, conduit, and fitting) and equipment of the heat-producing type having a maximum temperature of not more than 100°C (212°F) need not have a marked operating temperature or temperature range.

(B) Fixed lighting fixtures marked for use only in Class I, Division 2 locations need not be marked to indicate the group.

(C) Fixed general-purpose equipment in Class I locations, other than lighting fixtures, which is acceptable for use in Class I, Division 2 locations need not be marked with the class, group, division, or operating temperature.

(D) Fixed dust-tight equipment, other than lighting fixtures, which is acceptable for use in Class II, Division 2 and Class III locations need not be marked with the class, group, division, or operating temperature.

(c) Safe for the hazardous (classified) location. Equipment which is safe for the location shall be of a type and design which the employer demonstrates will provide protection from the hazards arising from the combustibility and flammability of vapors, liquids, gases, dusts, or fibers.

Note: The National Electrical Code, NFPA 70, contains guidelines for determining the type and design of equipment and installations which will meet this requirement. The guidelines of this document address electric wiring, equipment, and systems installed in hazardous (classified) locations and contain specific provisions for the following: Wiring methods, wiring connections, conductor insulation, flexible cords, sealing and drainage, transformers, capacitors, switches, circuit breakers, fuses, motor controllers, receptacles, attachment plugs, meters, relays, instruments, resistors, generators, motors, lighting fixtures, storage battery charging equipment, electric cranes, electric hoists and similar equipment, utilization equipment, signaling systems, alarm systems, remote control systems, local loud speaker and communication systems, ventilation piping, live parts, lightning surge protection, and grounding. Compliance with these guidelines will constitute one means, but not the only means, of compliance with this subsection.

(3) Conduits. All conduits shall be threaded and shall be made wrench-tight. Where it is impractical to make a threaded joint tight, a bonding jumper shall be utilized.

NEW SECTION

WAC 296-155-459 SPECIAL SYSTEMS. (1) Systems over 750 volts, nominal. (a) through (d) of this subsection contain general requirements for all circuits and equipment operated at over 750 volts.

(a) Wiring methods for fixed installations.

(i) Above ground. Above-ground conductors shall be installed in rigid metal conduit, in intermediate metal conduit, in cable trays, in cablebus, in other suitable raceways, or as open runs of metal-clad cable designed for the use and purpose. However, open runs of nonmetallic-sheathed cable or of bare conductors or busbars may be installed in locations which are accessible only to qualified persons. Metallic shielding components, such as tapes, wires, or braids for conductors, shall be grounded. Open runs of insulated wires and cables having a bare lead sheath or a braided outer covering shall be supported in a manner designed to prevent physical damage to the braid or sheath.

(ii) Installations emerging from the ground. Conductors emerging from the ground shall be enclosed in raceways. Raceways installed on poles shall be of rigid metal conduit, intermediate metal conduit, PVC schedule 80 or equivalent extending from the ground line up to a point 8 feet (2.44 m) above finished grade. Conductors entering a building shall be protected by an enclosure from the ground line to the point of entrance. Metallic enclosures shall be grounded.

(b) Interrupting and isolating devices.

(i) Circuit breakers. Circuit breakers located indoors shall consist of metal-enclosed or fire-resistant, cell-mounted units. In locations accessible only to qualified personnel, open mounting of circuit breakers is permitted. A means of indicating the open and closed position of circuit breakers shall be provided.

(ii) Fused cutouts. Fused cutouts installed in buildings or transformer vaults shall be of a type identified for the purpose. They shall be readily accessible for fuse replacement.

(iii) Equipment isolating means. A means shall be provided to completely isolate equipment for inspection and repairs. Isolating means which are not designed to interrupt the load current of the circuit shall be either interlocked with a circuit interrupter or provided with a sign warning against opening them under load.

(c) Mobile and portable equipment.

(i) Power cable connections to mobile machines. A metallic enclosure shall be provided on the mobile machine for enclosing the terminals of the power cable. The enclosure shall include provisions for a solid connection for the ground wire(s) terminal to ground effectively the machine frame. The method of cable termination used shall prevent any strain or pull on the cable from stressing the electrical connections. The enclosure shall have provision for locking so only authorized qualified persons may open it and shall be marked with a sign warning of the presence of energized parts.

(ii) Guarding live parts. All energized switching and control parts shall be enclosed in effectively grounded metal cabinets or enclosures. Circuit breakers and protective equipment shall have the operating means projecting through the metal cabinet or enclosure so these units can be reset without locked doors being opened. Enclosures and metal cabinets shall be locked so that only authorized qualified persons have access and shall be marked with a sign warning of the presence of energized parts. Collector ring assemblies on revolving-type machines (shovels, draglines, etc.) shall be guarded.

(d) Tunnel installations.

(i) Application. The provisions of this item apply to installation and use of high-voltage power distribution and utilization equipment which is associated with tunnels and which is portable and/or mobile, such as substations, trailers, cars, mobile shovels, draglines, hoists, drills, dredges, compressors, pumps, conveyors, and underground excavators.

(ii) Conductors. Conductors in tunnels shall be installed in one or more of the following:

- (A) Metal conduit or other metal raceway;
- (B) Type MC cable; or
- (C) Other suitable multiconductor cable.

Conductors shall also be so located or guarded as to protect them from physical damage. Multiconductor portable cable may supply mobile equipment. An equipment grounding conductor shall be run with circuit conductors inside the metal raceway or inside the multiconductor cable jacket. The equipment grounding conductor may be insulated or bare.

(iii) Guarding live parts. Bare terminals of transformers, switches, motor controllers, and other equipment shall be enclosed to prevent accidental contact with energized parts. Enclosures for use in tunnels shall be drip-proof, weatherproof, or submersible as required by the environmental conditions.

(iv) Disconnecting means. A disconnecting means that simultaneously opens all ungrounded conductors shall be installed at each transformer or motor location.

(v) Grounding and bonding. All nonenergized metal parts of electric equipment and metal raceways and cable sheaths shall be grounded and bonded to all metal pipes and rails at the portal and at intervals not exceeding 1000 feet (305 m) throughout the tunnel.

(2) Class 1, Class 2, and Class 3 remote control, signaling, and power-limited circuits.

(a) Classification. Class 1, Class 2, or Class 3 remote control, signaling, or power-limited circuits are characterized by their usage and electrical power limitation which differentiates them from light and power circuits. These circuits are classified in accordance with their respective voltage and power limitations as summarized in (a)(i) through (iii) of this subsection.

(i) Class 1 circuits.

(A) A Class 1 power-limited circuit is supplied from a source having a rated output of not more than 30 volts and 1000 volt-amperes.

(B) A Class 1 remote control circuit or a Class 1 signaling circuit has a voltage which does not exceed 750 volts; however, the power output of the source need not be limited.

(ii) Class 2 and Class 3 circuits.

(A) Power for Class 2 and Class 3 circuits is limited either inherently (in which no overcurrent protection is required) or by a combination of a power source and overcurrent protection.

(B) The maximum circuit voltage is 150 volts AC or DC for a Class 2 inherently limited power source, and 100 volts AC or DC for a Class 3 inherently limited power source.

(C) The maximum circuit voltage is 30 volts AC and 60 volts DC for a Class 2 power source limited by overcurrent protection, and 150 volts AC or DC for a Class 3 power source limited by overcurrent protection.

(iii) Application. The maximum circuit voltages in (a)(i) and (ii) of this subsection apply to sinusoidal AC or continuous DC power sources, and where wet contact occurrence is not likely.

(b) Marking. A Class 2 or Class 3 power supply unit shall not be used unless it is durably marked where plainly visible to indicate the class of supply and its electrical rating.

(3) Communications systems.

(a) Scope. These provisions for communication systems apply to such systems as central-station-connected and noncentral-station-connected telephone circuits, radio receiving and transmitting equipment, and outside wiring for fire and burglar alarm, and similar central station systems. These installations need not comply with the provisions of WAC 296-155-444 through 296-155-459(2), except WAC 296-155-447 (3)(a)(ii) and 296-155-456.

(b) Protective devices.

(i) Circuits exposed to power conductors. Communication circuits so located as to be exposed to accidental contact with light or power conductors operating at over 300 volts shall have each circuit so exposed provided with an approved protector.

(ii) Antenna lead-ins. Each conductor of a lead-in from an outdoor antenna shall be provided with an antenna discharge unit or other means that will drain static charges from the antenna system.

(c) Conductor location.

(i) Outside of buildings.

(A) Receiving distribution lead-in or aerial-drop cables attached to buildings and lead-in conductors to radio transmitters shall be so installed as to avoid the possibility of accidental contact with electric light or power conductors.

(B) The clearance between lead-in conductors and any lightning protection conductors shall not be less than 6 feet (1.83 m).

(ii) On poles. Where practicable, communication conductors on poles shall be located below the light or power conductors. Communications conductors shall not be attached to a crossarm that carries light or power conductors.

(iii) Inside of buildings. Indoor antennas, lead-ins, and other communication conductors attached as open conductors to the inside of buildings shall be located at least 2 inches (50.8 mm) from conductors of any light or power or Class 1 circuits unless a special and equally protective method of conductor separation is employed.

(d) Equipment location. Outdoor metal structures supporting antennas, as well as self-supporting antennas such as vertical rods or dipole structures, shall be located as far away from overhead conductors of electric light and power circuits of over 150 volts to ground as necessary to avoid the possibility of the antenna or structure falling into or making accidental contact with such circuits.

(e) Grounding.

(i) Lead-in conductors. If exposed to contact with electric light or power conductors, the metal sheath of aerial cables entering buildings shall be grounded or shall be interrupted close to the entrance to the building by an insulating joint or equivalent device. Where protective devices are used, they shall be grounded.

(ii) Antenna structures. Masts and metal structures supporting antennas shall be permanently and effectively grounded without splice or connection in the grounding conductor.

(iii) Equipment enclosures. Transmitters shall be enclosed in a metal frame or grill or separated from the operating space by a barrier, all metallic parts of which are effectively connected to ground. All external metal handles and controls accessible to the operating personnel shall be effectively grounded. Unpowered equipment and enclosures shall be considered grounded where connected to an attached coaxial cable with an effectively grounded metallic shield.

NEW SECTION

WAC 296-155-462 DEFINITIONS APPLICABLE TO THIS PART. The definitions given in this section apply to the terms used in Part I. The definitions given here for "approved" and "qualified person" apply, instead of the definitions given in WAC 296-155-012, to the use of these terms in Part I.

(1) "Acceptable." An installation or equipment is acceptable to the director, and approved within the meaning of this Part I:

(a) If it is accepted, certified, listed, labeled, or otherwise determined to be safe by a qualified testing laboratory capable of determining the suitability of materials and equipment for installation and use in accordance with this standard; or

(b) With respect to an installation or equipment of a kind which no qualified testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another state agency, or by a federal, municipal, or other local authority responsible for enforcing occupational safety provisions of the National Electrical Code, and found in compliance with those provisions; or

(c) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by a particular customer, if it is determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the director and his authorized representatives.

(2) "Accepted." An installation is "accepted" if it has been inspected and found to be safe by a qualified testing laboratory.

(3) "Accessible." (As applied to wiring methods.) Capable of being removed or exposed without damaging the building structure or finish, or not permanently closed in by the structure or finish of the building. (See "concealed" and "exposed.")

(4) "Accessible." (As applied to equipment.) Admitting close approach; not guarded by locked doors, elevation, or other effective means. (See "readily accessible.")

(5) "Ampacity." The current in amperes a conductor can carry continuously under the conditions of use without exceeding its temperature rating.

(6) "Appliances." Utilization equipment, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions.

(7) "Approved." Approved by the director of the department of labor and industries or his authorized representative: PROVIDED, HOWEVER, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the bureau of mines, the provisions of WAC 296-155-006 shall apply.

(8) "Askarel." A generic term for a group of nonflammable synthetic chlorinated hydrocarbons used as electrical insulating media. Askarels of various compositional types are used. Under arcing conditions the gases produced, while consisting predominantly of noncombustible hydrogen chloride, can include varying amounts of combustible gases depending upon the askarel type.

(9) "Attachment plug (plug cap) (cap)." A device which, by insertion in a receptacle, establishes connection between the conductors of the attached flexible cord and the conductors connected permanently to the receptacle.

(10) "Automatic." Self-acting, operating by its own mechanism when actuated by some impersonal influence, as for example, a change in current strength, pressure, temperature, or mechanical configuration.

(11) "Bare conductor." See "conductor."

(12) "Bonding." The permanent joining of metallic parts to form an electrically conductive path which will assure electrical continuity and the capacity to conduct safely any current likely to be imposed.

(13) "Bonding jumper." A reliable conductor to assure the required electrical conductivity between metal parts required to be electrically connected.

(14) "Branch circuits." That portion of a wiring system extending beyond the final overcurrent device protecting the circuit. (A device not approved for branch circuit protection, such as thermal cutout or motor overload protective device, is not considered as the overcurrent device protecting the circuit.)

(15) "Building." A structure which stands alone or which is cut off from adjoining structures by fire walls with all openings therein protected by approved fire doors.

(16) "Cabinet." An enclosure designed either for surface or flush mounting, and provided with a frame, mat, or trim in which a swinging door or doors are or may be hung.

(17) "Certified." Equipment is "certified" if it:

(a) Has been tested and found by a qualified testing laboratory to meet applicable test standards or to be safe for use in a specified manner; and

(b) Is of a kind whose production is periodically inspected by a qualified testing laboratory. Certified equipment must bear a label, tag, or other record of certification.

(18) "Circuit breaker."

(a) (750 volts nominal, or less.) A device designed to open and close a circuit by nonautomatic means and to open the circuit automatically on a predetermined overcurrent without injury to itself when properly applied within its rating.

(b) (Over 750 volts, nominal.) A switching device capable of making, carrying, and breaking currents under normal circuit conditions, and also making, carrying for a specified time, and breaking currents under specified abnormal circuit conditions, such as those of short circuit.

(19) "Class I locations." Class I locations are those in which flammable gases or vapors are or may be present in the air in quantities sufficient to produce explosive or ignitable mixtures. Class I locations include the following:

(a) Class I, Division 1. A Class I, Division 1 location is a location:

(i) In which ignitable concentrations of flammable gases or vapors may exist under normal operating conditions; or

(ii) In which ignitable concentrations of such gases or vapors may exist frequently because of repair or maintenance operations or because of leakage; or

(iii) In which breakdown or faulty operation of equipment or processes might release ignitable concentrations of flammable gases or vapors, and might also cause simultaneous failure of electric equipment.

Note: This classification usually includes locations where volatile flammable liquids or liquefied flammable gases are transferred from one container to another; interiors of spray booths and areas in the vicinity of spraying and painting operations where volatile flammable solvents are used; locations containing open tanks or vats of volatile flammable liquids; drying rooms or compartments for the evaporation of flammable solvents; inadequately ventilated pump rooms for flammable gas or for volatile flammable liquids; and all other locations where ignitable concentrations of flammable vapors or gases are likely to occur in the course of normal operations.

(b) Class I, Division 2. A Class I, Division 2 location is a location:

(i) In which volatile flammable liquids or flammable gases are handled, processed, or used, but in which the hazardous liquids, vapors, or gases will normally be confined within closed containers or closed systems from which they can escape only in case of accidental rupture or breakdown of such containers or systems, or in case of abnormal operation of equipment; or

(ii) In which ignitable concentrations of gases or vapors are normally prevented by positive mechanical ventilation, and which might become hazardous through failure or abnormal operations of the ventilating equipment; or

(iii) That is adjacent to a Class I, Division 1 location, and to which ignitable concentrations of gases or vapors might occasionally be communicated unless such communication is prevented by adequate positive-pressure ventilation from a source of clean air, and effective safeguards against ventilation failure are provided.

Note: This classification usually includes locations where volatile flammable liquids or flammable gases or vapors are used, but which would become hazardous only in case of an accident or of some unusual operating condition. The quantity of flammable material that might escape in case of accident, the adequacy of ventilating equipment, the total area involved, and the record of the industry or business with respect to explosions or fires are all factors that merit consideration in determining the classification and extent of each location.

Piping without valves, checks, meters, and similar devices would not ordinarily introduce a hazardous condition even though used for flammable liquids or gases. Locations used for the storage of flammable liquids or of liquefied or compressed gases in sealed containers would not normally be considered hazardous unless also subject to other hazardous conditions.

Electrical conduits and their associated enclosures separated from process fluids by a single seal or barrier are classed as a Division 2 location if the outside of the conduit and enclosures is a nonhazardous location.

(20) "Class II locations." Class II locations are those that are hazardous because of the presence of combustible dust. Class II locations include the following:

(a) Class II, Division 1. A Class II, Division 1 location is a location:

(i) In which combustible dust is or may be in suspension in the air under normal operating conditions, in quantities sufficient to produce explosive or ignitable mixtures; or

(ii) Where mechanical failure or abnormal operation of machinery or equipment might cause such explosive or ignitable mixtures to be produced, and might also provide a source of ignition through simultaneous failure of electric equipment, operation of protection devices, or from other causes; or

(iii) In which combustible dusts of an electrically conductive nature may be present.

Note: Combustible dusts which are electrically nonconductive include dusts produced in the handling and processing of grain and grain products, pulverized sugar and cocoa, dried egg and milk powders, pulverized spices, starch and pastes, potato and woodflour, oil meal from beans and seed, dried hay, and other organic materials which may produce combustible dusts when processed or handled. Dusts containing magnesium

or aluminum are particularly hazardous and the use of extreme caution is necessary to avoid ignition and explosion.

(b) Class II, Division 2. A Class II, Division 2 location is a location in which:

(i) Combustible dust will not normally be in suspension in the air in quantities sufficient to produce explosive or ignitable mixtures, and dust accumulations are normally insufficient to interfere with the normal operation of electrical equipment or other apparatus; or

(ii) Dust may be in suspension in the air as a result of infrequent malfunctioning of handling or processing equipment, and dust accumulations resulting therefrom may be ignitable by abnormal operation or failure of electrical equipment or other apparatus.

Note: This classification includes locations where dangerous concentrations of suspended dust would not be likely but where dust accumulations might form on or in the vicinity of electric equipment. These areas may contain equipment from which appreciable quantities of dust would escape under abnormal operating conditions or be adjacent to a Class II, Division 1 location, as described above, into which an explosive or ignitable concentration of dust may be put into suspension under abnormal operating conditions.

(21) "Class III locations." Class III locations are those that are hazardous because of the presence of easily ignitable fibers or flyings but in which such fibers or flyings are not likely to be in suspension in the air in quantities sufficient to produce ignitable mixtures. Class III locations include the following:

(a) Class III, Division 1. A Class III, Division 1 location is a location in which easily ignitable fibers or materials producing combustible flyings are handled, manufactured, or used.

Note: Easily ignitable fibers and flyings include rayon, cotton (including cotton linters and cotton waste), sisal or henequen, istle, jute, hemp, tow, coco fiber, oakum, baled waste kapok, Spanish moss, excelsior, sawdust, woodchips, and other material of similar nature.

(b) Class III, Division 2. A Class III, Division 2 location is a location in which easily ignitable fibers are stored or handled, except in process of manufacture. Collector ring. A collector ring is an assembly of slip rings for transferring electrical energy from a stationary to a rotating member.

(22) "Collector ring." A collector ring is an assembly of slip rings for transferring electrical energy from a stationary to a rotating member.

(23) "Concealed." Rendered inaccessible by the structure or finish of the building. Wires in concealed raceways are considered concealed, even though they may become accessible by withdrawing them. See "accessible. (As applied to wiring methods.)"

(24) "Conductor."

(a) Bare. A conductor having no covering or electrical insulation whatsoever.

(b) Covered. A conductor encased within material of composition or thickness that is not recognized as electrical insulation.

(c) Insulated. A conductor encased within material of composition and thickness that is recognized as electrical insulation.

(25) "Controller." A device or group of devices that serves to govern, in some predetermined manner, the electric power delivered to the apparatus to which it is connected.

(26) "Covered conductor." See "conductor."

(27) "Cutout." (Over 750 volts, nominal.) An assembly of a fuse support with either a fuseholder, fuse carrier, or disconnecting blade. The fuseholder or fuse carrier may include a conducting element (fuse link), or may act as the disconnecting blade by the inclusion of a nonfusible member.

(28) "Cutout box." An enclosure designed for surface mounting and having swinging doors or covers secured directly to and telescoping with the walls of the box proper. (See "cabinet.")

(29) "Damp location." See "location."

(30) "Dead front." Without live parts exposed to a person on the operating side of the equipment.

(31) "Device." A unit of an electrical system which is intended to carry but not utilize electric energy.

(32) "Disconnecting means." A device, or group of devices, or other means by which the conductors of a circuit can be disconnected from their source of supply.

(33) "Disconnecting (or isolating) switch." (Over 750 volts, nominal.) A mechanical switching device used for isolating a circuit or equipment from a source of power.

(34) "Dry location." See "location."

(35) "Enclosed." Surrounded by a case, housing, fence or walls which will prevent persons from accidentally contacting energized parts.

(36) "Enclosure." The case or housing of apparatus, or the fence or walls surrounding an installation to prevent personnel from accidentally contacting energized parts, or to protect the equipment from physical damage.

(37) "Equipment." A general term including material, fittings, devices, appliances, fixtures, apparatus, and the like, used as a part of, or in connection with, an electrical installation.

(38) "Equipment grounding conductor." See "grounding conductor, equipment."

(39) "Explosion-proof apparatus." Apparatus enclosed in a case that is capable of withstanding an explosion of a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that it will not ignite a surrounding flammable atmosphere.

(40) "Exposed. (As applied to live parts.)" Capable of being inadvertently touched or approached nearer than a safe distance by a person. It is applied to parts not suitably guarded, isolated, or insulated. (See "accessible" and "concealed.")

(41) "Exposed. (As applied to wiring methods.)" On or attached to the surface or behind panels designed to allow access. See "accessible. (As applied to wiring methods.)"

(42) "Exposed. (For the purposes of WAC 296-155-459(4), Communications systems.)" Where the circuit is in such a position that in case of failure of supports or insulation, contact with another circuit may result.

(43) "Externally operable." Capable of being operated without exposing the operator to contact with live parts.

(44) "Feeder." All circuit conductors between the service equipment, or the generator switchboard of an isolated plant, and the final branch-circuit overcurrent device.

(45) "Festoon lighting." A string of outdoor lights suspended between two points more than 15 feet (4.57 m) apart.

(46) "Fitting." An accessory such as a locknut, bushing, or other part of a wiring system that is intended primarily to perform a mechanical rather than an electrical function.

(47) "Fuse." (Over 750 volts, nominal.) An overcurrent protective device with a circuit opening fusible part that is heated and severed by the passage of overcurrent through it. A fuse comprises all the parts that form a unit capable of performing the prescribed functions. It may or may not be the complete device necessary to connect it into an electrical circuit.

(48) "Ground." A conducting connection, whether intentional or accidental, between an electrical circuit or equipment and the earth, or to some conducting body that serves in place of the earth.

(49) "Grounded." Connected to earth or to some conducting body that serves in place of the earth.

(50) "Grounded, effectively." (Over 750 volts, nominal.) Permanently connected to earth through a ground connection of sufficiently low impedance and having sufficient ampacity that ground fault current which may occur cannot build up to voltages dangerous to personnel.

(51) "Grounded conductor." A system or circuit conductor that is intentionally grounded.

(52) "Grounding conductor." A conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

(53) "Grounding conductor, equipment." The conductor used to connect the noncurrent-carrying metal parts of equipment, raceways, and other enclosures to the system grounded conductor and/or the grounding electrode conductor at the service equipment or at the source of a separately derived system.

(54) "Grounding electrode conductor." The conductor used to connect the grounding electrode to the equipment grounding conductor and/or to the grounded conductor of the circuit at the service equipment or at the source of a separately derived system.

(55) "Ground-fault circuit interrupter." A device for the protection of personnel that functions to deenergize a circuit or portion thereof within an established period of time when a current to ground exceeds some predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit.

(56) "Guarded." Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens,

mats, or platforms to remove the likelihood of approach to a point of danger or contact by persons or objects.

(57) "Hazard." That condition, potential or inherent, which is likely to cause injury, death, or occupational disease.

(58) "Hoistway." Any shaftway, hatchway, well hole, or other vertical opening or space in which an elevator or dumbwaiter is designed to operate.

(59) "Identified (conductors or terminals)." Identified, as used in reference to a conductor or its terminal, means that such conductor or terminal can be recognized as grounded.

(60) "Identified (for the use)." Recognized as suitable for the specific purpose, function, use, environment, application, etc., where described as a requirement in this standard. Suitability of equipment for a specific purpose, environment, or application is determined by a qualified testing laboratory where such identification includes labeling or listing.

(61) "Insulated conductor." See "conductor."

(62) "Interrupter switch." (Over 750 volts, nominal.) A switch capable of making, carrying, and interrupting specified currents.

(63) "Intrinsically safe equipment and associated wiring." Equipment and associated wiring in which any spark or thermal effect, produced either normally or in specified fault conditions, is incapable, under certain prescribed test conditions, of causing ignition of a mixture of flammable or combustible material in air in its most easily ignitable concentration.

(64) "Isolated." Not readily accessible to persons unless special means for access are used.

(65) "Isolated power system." A system comprising an isolating transformer or its equivalent, a line isolation monitor, and its ungrounded circuit conductors.

(66) "J-Box (Junction Box)." An electrical sheet metal enclosure with openings for conduit or cable with sheet metal cover. The primary purpose is for joining conductors for splicing.

(67) "Labeled." Equipment or materials to which has been attached a label, symbol or other identifying mark of a qualified testing laboratory which indicates compliance with appropriate standards or performance in a specified manner.

(68) "Lighting outlet." An outlet intended for the direct connection of a lampholder, a lighting fixture, or a pendant cord terminating in a lampholder.

(69) "Listed." Equipment or materials included in a list published by a qualified testing laboratory whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

(70) "Location."

(a) Damp location. Partially protected locations under canopies, marquees, roofed open porches, and like locations, and interior locations subject to moderate degrees of moisture, such as some basements.

(b) Dry location. A location not normally subject to dampness or wetness. A location classified as dry may be temporarily subject to dampness or wetness, as in the case of a building under construction.

(c) Wet location. Installations underground or in concrete slabs or masonry in direct contact with the earth, and locations subject to saturation with water or other liquids, such as locations exposed to weather and unprotected.

(71) "Mobile x-ray." X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled.

(72) "Motor control center." An assembly of one or more enclosed sections having a common power bus and principally containing motor control units.

(73) "Outlet." A point on the wiring system at which current is taken to supply utilization equipment.

(74) "Overcurrent." Any current in excess of the rated current of equipment or the ampacity of a conductor. It may result from overload (see definition), short circuit, or ground fault. A current in excess of rating may be accommodated by certain equipment and conductors for a given set of conditions. Hence the rules for overcurrent protection are specific for particular situations.

(75) "Overload." Operation of equipment in excess of normal, full load rating, or of a conductor in excess of rated ampacity which, when it persists for a sufficient length of time, would cause damage or dangerous overheating. A fault, such as a short circuit or ground fault, is not an overload. (See "overcurrent.")

(76) "Panelboard." A single panel or group of panel units designed for assembly in the form of a single panel; including buses, automatic overcurrent devices, and with or without switches for the control of

light, heat, or power circuits; designed to be placed in a cabinet or cutout box placed in or against a wall or partition and accessible only from the front. (See "switchboard.")

(77) "Portable x-ray." X-ray equipment designed to be hand-carried.

(78) "Power fuse." (Over 750 volts, nominal.) See "fuse."

(79) "Power outlet." An enclosed assembly which may include receptacles, circuit breakers, fuseholders, fused switches, buses and watt-hour meter mounting means; intended to serve as a means for distributing power required to operate mobile or temporarily installed equipment.

(80) "Premises wiring system." That interior and exterior wiring, including power, lighting, control, and signal circuit wiring together with all of its associated hardware, fittings, and wiring devices, both permanently and temporarily installed, which extends from the load end of the service drop, or load end of the service lateral conductors to the outlet(s). Such wiring does not include wiring internal to appliances, fixtures, motors, controllers, motor control centers, and similar equipment.

(81) "Qualified person." One familiar with the construction and operation of the equipment and the hazards involved.

(82) "Qualified testing laboratory." A properly equipped and staffed testing laboratory which has capabilities for and which provides the following services:

(a) Experimental testing for safety of specified items of equipment and materials referred to in this standard to determine compliance with appropriate test standards or performance in a specified manner;

(b) Inspecting the run of such items of equipment and materials at factories for product evaluation to assure compliance with the test standards;

(c) Service-value determinations through field inspections to monitor the proper use of labels on products and with authority for recall of the label in the event a hazardous product is installed;

(d) Employing a controlled procedure for identifying the listed and/or labeled equipment or materials tested; and

(e) Rendering creditable reports or findings that are objective and without bias of the tests and test methods employed.

(83) "Raceway." A channel designed expressly for holding wires, cables, or busbars, with additional functions as permitted in this part. Raceways may be of metal or insulating material, and the term includes rigid metal conduit, rigid nonmetallic conduit, intermediate metal conduit, liquidtight flexible metal conduit, flexible metallic tubing, flexible metal conduit, electrical metallic tubing, underfloor raceways, cellular concrete floor raceways, cellular metal floor raceways, surface raceways, wireways, and busways.

(84) "Readily accessible." Capable of being reached quickly for operation, renewal, or inspections, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs, etc. (See "accessible.")

(85) "Receptacle." A receptacle is a contact device installed at the outlet for the connection of a single attachment plug. A single receptacle is a single contact device with no other contact device on the same yoke. A multiple receptacle is a single device containing two or more receptacles.

(86) "Receptacle outlet." An outlet where one or more receptacles are installed.

(87) "Remote-control circuit." Any electric circuit that controls any other circuit through a relay or an equivalent device.

(88) "Sealable equipment." Equipment enclosed in a case or cabinet that is provided with a means of sealing or locking so that live parts cannot be made accessible without opening the enclosure. The equipment may or may not be operable without opening the enclosure.

(89) "Separately derived system." A premises wiring system whose power is derived from generator, transformer, or converter windings and has no direct electrical connection, including a solidly connected grounded circuit conductor, to supply conductors originating in another system.

(90) "Service." The conductors and equipment for delivering energy from the electricity supply system to the wiring system of the premises served.

(91) "Service conductors." The supply conductors that extend from the street main or from transformers to the service equipment of the premises supplied.

(92) "Service drop." The overhead service conductors from the last pole or other aerial support to and including the splices, if any, connecting to the service-entrance conductors at the building or other structure.

(93) "Service-entrance conductors, overhead system." The service conductors between the terminals of the service equipment and a point usually outside the building, clear of building walls, where joined by tap or splice to the service drop.

(94) "Service-entrance conductors, underground system." The service conductors between the terminals of the service equipment and the point of connection to the service lateral. Where service equipment is located outside the building walls, there may be no service-entrance conductors, or they may be entirely outside the building.

(95) "Service equipment." The necessary equipment, usually consisting of a circuit breaker or switch and fuses, and their accessories, located near the point of entrance of supply conductors to a building or other structure, or an otherwise defined area, and intended to constitute the main control and means of cutoff of the supply.

(96) "Service raceway." The raceway that encloses the service-entrance conductors.

(97) "Shock hazard." To exist at an accessible part in a circuit between the part and ground, or other accessible parts if the potential is more than 42.4 volts peak and the current through a 1,500-ohm load is more than 5 milliamperes.

(98) "Signaling circuit." Any electric circuit that energizes signaling equipment.

(99) "Switchboard." A large single panel, frame, or assembly of panels which have switches, buses, instruments, overcurrent and other protective devices mounted on the face or back or both. Switchboards are generally accessible from the rear as well as from the front and are not intended to be installed in cabinets. (See "panelboard.")

(100) "Switches."

(a) General-use switch. A switch intended for use in general distribution and branch circuits. It is rated in amperes, and it is capable of interrupting its rated current at its rated voltage.

(b) General-use snap switch. A form of general-use switch so constructed that it can be installed in flush device boxes or on outlet box covers, or otherwise used in conjunction with wiring systems recognized by this part.

(c) Isolating switch. A switch intended for isolating an electric circuit from the source of power. It has no interrupting rating, and it is intended to be operated only after the circuit has been opened by some other means.

(d) Motor-circuit switch. A switch, rated in horsepower, capable of interrupting the maximum operating overload current of a motor of the same horsepower rating as the switch at the rated voltage.

(101) "Switching devices." (Over 750 volts, nominal.) Devices designed to close and/or open one or more electric circuits. Included in this category are circuit breakers, cutouts, disconnecting (or isolating) switches, disconnecting means, and interrupter switches.

(102) "Transformer." A transformer is an apparatus for converting electrical power in an a-c system at one voltage or current into electrical power at some other voltage or current without the use of rotating parts.

(103) "Transportable x-ray." X-ray equipment installed in a vehicle or that may readily be disassembled for transport in a vehicle.

(104) "Utilization equipment." Utilization equipment means equipment which utilizes electric energy for mechanical, chemical, heating, lighting, or similar useful purpose.

(105) "Utilization system." A utilization system is a system which provides electric power and light for employee workplaces, and includes the premises wiring system and utilization equipment.

(106) "Ventilated." Provided with a means to permit circulation of air sufficient to remove an excess of heat, fumes, or vapors.

(107) "Volatile flammable liquid." A flammable liquid having a flash point below 38°C (100°F) or whose temperature is above its flash point, or a Class II combustible liquid having a vapor pressure not exceeding 40 psia (276 kPa) at 38°C (100°F) whose temperature is above its flash point.

(108) "Voltage." (Of a circuit.) The greatest root-mean-square (effective) difference of potential between any two conductors of the circuit concerned.

(109) "Voltage, nominal." A nominal value assigned to a circuit or system for the purpose of conveniently designating its voltage class (as 120/240, 480Y/277, 750, etc.) The actual voltage at which a circuit operates can vary from the nominal within a range that permits satisfactory operation of equipment.

(110) "Voltage to ground." For grounded circuits, the voltage between the given conductor and that point or conductor of the circuit that is grounded; for ungrounded circuits, the greatest voltage between the given conductor and any other conductor of the circuit.

(111) "Watertight." So constructed that moisture will not enter the enclosure.

(112) "Weatherproof." So constructed or protected that exposure to the weather will not interfere with successful operation. Rainproof, raintight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

(113) "Wet location." See "location."

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-155-425 DEFINITIONS APPLICABLE TO THIS PART.

WAC 296-155-430 GENERAL REQUIREMENTS.

WAC 296-155-435 GROUNDING AND BONDING.

WAC 296-155-440 EQUIPMENT INSTALLATION AND MAINTENANCE.

WAC 296-155-450 BATTERY ROOMS AND BATTERY CHARGING.

WAC 296-155-455 HAZARDOUS LOCATIONS.

NEW SECTION

WAC 296-45-65026 PERSONAL PROTECTIVE GROUNDING. (1) Purpose.

(a) Reduce the potential voltage differences across the worker: The primary function of personal protective grounds is to provide maximum safety for personnel while they are working on de-energized lines or equipment. This will be accomplished by making provisions which will reduce the potential voltage differences at the worksite (voltage across the worker) to a safe value in case the equipment or line being worked on is accidentally energized from any possible source.

(b) Protect from induced voltage: The secondary function is also to protect against induced voltage from adjacent parallel energized lines.

(c) Insure adequate operation of protective devices: The third function is to make the protective devices (relays and circuit breakers or fuses) disconnect the energizing source within a given time/current relationship.

(2) Application.

(a) De-energized line: When an energized line over seven hundred fifty volts is removed from service to be worked on, the line shall be treated as though it is energized until the line is cleared, tagged, tested, and grounded.

(b) Communication conductors: Bare wire communication conductors on power poles and structures are subject to these rules as energized lines and voltages in excess of seven hundred fifty volts unless protected by insulating materials.

(c) New construction: The grounding rule is advisory, rather than compulsory, when work is being done on new construction that is known to be de-energized and it is not possible to energize the line.

(d) Minimum distance from ungrounded conductors: The minimum distance shown in Table 1 of WAC 296-45-65027(14) shall be maintained from ungrounded conductors at the work location. The ground may be omitted if the making of a ground is impractical, or the conditions resulting therefrom are more hazardous than working on the lines or equipment without grounding. However, all work must be done in accordance with this chapter as if the line or equipment is energized.

(3) Grounding equipment.

(a) Availability: Grounding equipment shall be available for use when work is being done on de-energized lines or equipment.

(b) Approved capacity: Grounding equipment shall be of approved current carrying capacity capable of accommodating the maximum fault current to which the line or equipment could be subjected.

(c) Approved connector: Grounding shall be made with an approved connector capable of conducting the available fault current.

(d) Approved ferrules and grounding clamps: Grounding jumpers shall have approved ferrules and grounding clamps that provide mechanical support for jumper cables independent of the electrical connection.

(e) Minimum conductance: A ground lead shall have a minimum conductance of #2 AWG copper.

(4) Testing prior to installation of ground. Before grounds are installed, the de-energized line or equipment shall be tested for voltage by the following approved methods:

(a) Tester testing: Approved testers (audio and/or visual) may be used; however, they shall be tested immediately before and after use to verify that the tester is in good working condition.

(b) Hot line tool testing: A de-energized line may be buzzed or tested, to insure that it is de-energized, using an approved hot line tool with a substantial piece of metal on the end.

(5) Attaching and removing ground(s).

(a) Inspection before use: Grounding equipment shall be given a visual inspection and all mechanical connections shall be checked for tightness before each use.

(b) Ground surface cleaning: The surface to which the ground is to be attached shall be clean before the grounding clamp is installed; otherwise, a self-cleaning clamp shall be used.

(c) Ground attachment procedure: When attaching ground(s), the ground end shall be firmly attached first to a reliable ground and then the other end shall be attached to the line or equipment by means of approved hot line tools.

(d) Ground removal procedure: No ground shall be removed until all employees are clear of the temporary grounded lines or equipment. When removing the grounding set, it shall be disconnected from the line or equipment first with an approved hot line tool and lowered to a point below all energized conductors before the ground end is disconnected.

(6) Selection of ground location.

(a) Attached grounds: Ground(s) attached to each conductor being worked on are adequate when connected in a manner that will reduce the potential voltage difference across the worksite to a safe level. See examples: Figures A, B, and C.

(b) Location: Ground(s) shall be placed at the work location, or between the work location and the sources of energy and as close as practicable to the work location.

Installing grounds away from the worksite may increase the electrical hazard to the employees at the worksite.

(c) Multiple work locations on a line section: If work is to be performed at more than one location on a line section, the line section shall be grounded and short circuited at one location in the line section and the conductor shall be grounded at each work location or jumper(s) placed to reduce the potential voltage difference across the worksite.

(7) Testing without ground(s): Ground(s) may be temporarily removed when necessary for testing purposes. During a test procedure, with ground(s) removed, care shall be exercised.

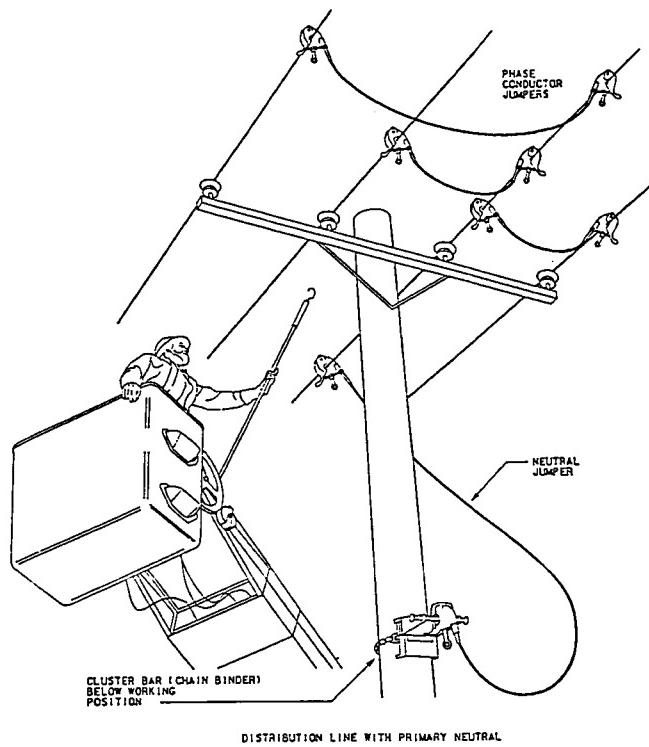
(8) Conductor separation: In cases where the conductor separation at any pole or structure is so great as to make it impractical to apply shorts on all conductors, and where only one conductor is to be worked on, only that conductor which is to be worked on needs to be grounded.

(9) Ground personnel: In cases where ground rods or pole grounds are utilized for personal protective grounding, personnel working on the ground should maintain sufficient distance from such equipment or utilize other approved procedures designed to prevent "touch-and step potential" hazards.

Note: Touch potential hazards refers to the difference in voltage measured between the grounding equipment and a worker in contact with the grounding equipment at the time it is accidentally energized. Step potential hazards refers to the difference in voltage measured between the feet of the worker standing or walking in an electrical field created by high voltage being brought to earth.

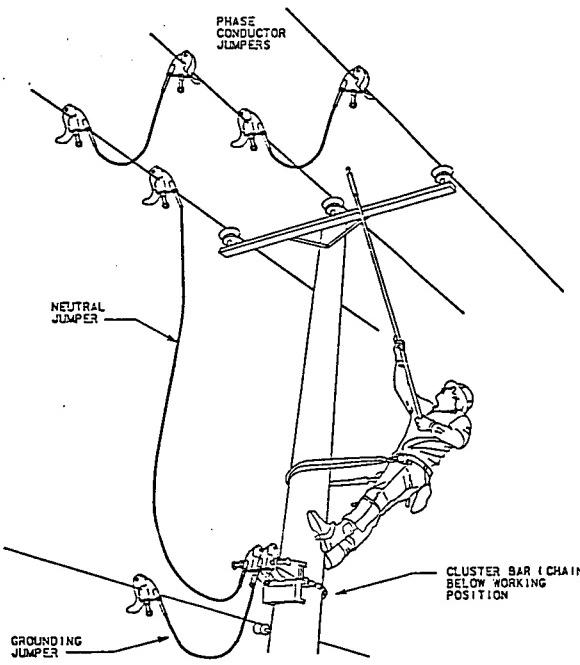
EXAMPLE OF
INSTALLATION OF PERSONAL PROTECTIVE GROUNDS
ON OVERHEAD LINES

FIGURE B



EXAMPLE OF
INSTALLATION OF PERSONAL PROTECTIVE GROUNDS
ON OVERHEAD LINES

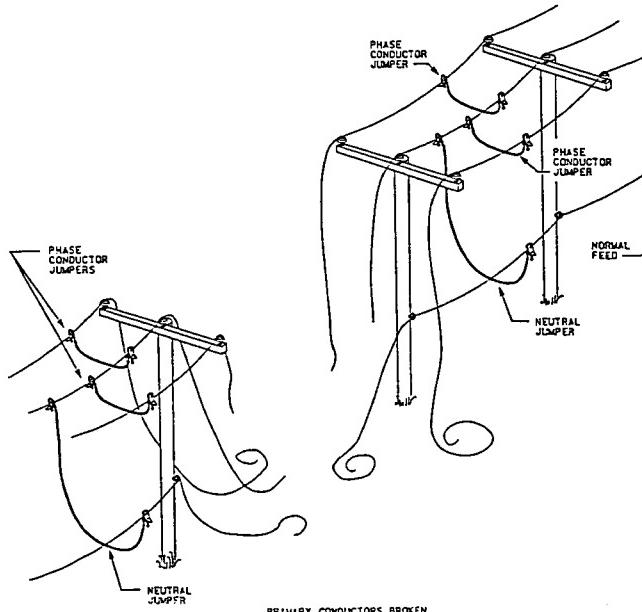
FIGURE A



DISTRIBUTION LINE WITH COMMON NEUTRAL

EXAMPLE OF
INSTALLATION OF PERSONAL PROTECTIVE GROUNDS
ON OVERHEAD LINES

FIGURE C



PRIMARY CONDUCTORS BROKEN

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-45-65025 GROUNDING.**AMENDATORY SECTION** (Amending Order 76-38, filed 12/30/76)

WAC 296-45-65037 UNDERGROUND. (1) Protective barriers, or approved guards and warning signs must be erected before removing manhole covers or making excavations in places accessible to vehicular or pedestrian traffic.

(2) Whenever an opening is made in the street, it shall be properly guarded or covered until same is closed and whenever an obstruction is left in the roadway after dark, it shall be marked with approved lights, flares or similar devices.

(3) When work is to be performed in a manhole or unvented vault:

(i) No entry shall be permitted unless forced ventilation is provided or the atmosphere is found to be safe by testing for oxygen deficiency and the presence of explosive or potentially hazardous gases or fumes.

(ii) When unsafe conditions are detected, by testing or other means, the work area shall be ventilated and otherwise made safe before entry.

(iii) Provisions shall be made for a continuous supply of air as provided for in WAC 296-62-110.

(iv) When forced ventilation is not used a method of monitoring said manhole or vault so as to prevent the occurrence of oxygen deficiency due to work being performed in said manhole or vault, and to detect the presence of any explosive gases or fumes which may occur while the employees are working in said manhole or vault.

(4) When open flames are used or smoking is permitted in manholes, adequate mechanical forced air ventilation shall be used.

(5) Before using open flames in a manhole or excavation in an area where combustible gases or liquids may be present, such as near a gasoline service station, the atmosphere of the manhole or excavation shall be tested and found safe or cleared of the combustible gases or liquids prior to the entry.

(6) When work is to be performed in manholes containing any wires or appliances carrying electrical current, they shall be in a sanitary condition.

(7) A watchman shall be kept at the surface when there is any hazard to the employees in the manhole and he should not leave the manhole unwatched until such time as all employees are out and the cover has been replaced.

(8) Care shall be taken to prevent the possibility of vehicles or pedestrians coming in contact with the wires and equipment.

(9) Trenching and excavating.

(a) During excavation or trenching, in order to prevent exposure of employees to the hazards created by damage to dangerous underground facilities, efforts shall be made to determine the location of such facilities and work conducted in a manner designed to avoid damage.

(10) No work shall be permitted to be done in any manhole or subway on any energized wire, cable or appliance carrying more than 300 volts of electricity by less than two competent or qualified persons who shall at all times, while performing such work, be in the same manhole or subway in which work is being done. This rule shall not apply to work on telephone, telegraph or signal wires or cables.

(11) Trenching and excavation operations shall comply with the provisions of WAC 296-155-650 and 296-155-660.

(12)(a) Cables in manholes shall be accessible to employees and clear working space shall be maintained at all times.

(b) Where cables are not permanently identified by tags or otherwise, diagrams and information establishing positive identification and position of the cables shall be provided and supplied to the employees.

(c) Where multiple cables exist in an excavation, cables other than the one being worked on shall be physically protected when necessary.

(d) When multiple cables exist in an excavation, the cables to be worked on shall be identified by approved testing unless its identification is obvious by reason of the distinctive appearance.

(e) Before cutting into a high voltage cable or opening a high voltage splice, the cable shall be de-energized then clearance obtained, tested and then grounded in an approved manner. The cable to be worked on shall be identified by tags or equivalent means.

(f) When working on buried cables or cables in manholes, the metallic sheath continuity shall be maintained by bonding across the opening or by equivalent means.

(13) Insulated platforms or other protective devices shall be provided when work is to be done on energized wires or equipment in manholes.

(14) Tools and materials shall not be left on the ground around or near the manhole opening where they might be pushed or otherwise fall into the hole.

(15) Furnaces shall always be placed in a secure, level position on the downhill side of the manhole to avoid spillage of hot metals or compounds into the manhole.

(16) Materials shall not be thrown into or out of manholes but shall be placed in the proper ((receptable)) receptacle and hoisted in and out by means of a rope.

(17) Pulling underground cable. When pulling cable(s) all employees shall be made aware of the hazard of being caught in the sheaves, lashings or winch gears. All employees shall stand clear of the pulling line when the pull is begun or when the line is under tension. This rule applies to all work performed by means of a winch.

(18) Fishing conduit or ducts. When fishing conduit or ducts, it shall first be determined that the fish tape or wires will not contact any energized line or equipment.

(19) WAC 296-45-65023 on clearances and WAC ((296-45-65025)) 296-45-65026 on grounding shall be complied with.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-24-590 PORTABLE FIRE SUPPRESSION EQUIPMENT—PORTABLE FIRE EXTINGUISHERS.**AMENDATORY SECTION** (Amending Order 73-5, filed 5/9/73)

WAC 296-24-68203 CYLINDERS AND CONTAINERS. (1) Approval and marking. All portable cylinders used for the storage and shipment of compressed gases shall be constructed and maintained in accordance with the regulations of the ((U.S.)) United States Department of Transportation, 49 CFR Parts 171-179.

(a) Compressed gas cylinders shall be legibly marked, for the purpose of identifying the gas content, with either the chemical or the trade name of the gas. Such marking shall be by means of stenciling, stamping, or labeling, and shall not be readily removable. Whenever practical, the marking shall be located on the shoulder of the cylinder.

Note: This method conforms to the American National Standard Method for Marking Portable Compressed Gas Containers to Identify the Material Contained, ANSI Z 48.1-1954.

(b) Compressed gas cylinders shall be equipped with connections complying with the American National Standard Compressed Gas Cylinder Valve Outlet and Inlet Connections, ANSI B 57.1-1965.

(c) All cylinders with a water weight capacity of over ((30)) thirty pounds shall be equipped with means of connecting a valve protection cap or with a collar or recess to protect the valve.

(2) Storage of cylinders – general.

(a) Cylinders shall be kept away from radiators and other sources of heat.

(b) Inside of buildings, cylinders shall be stored in a well-protected, well-ventilated, dry location, at least ((20)) twenty feet from highly combustible materials such as oil or excelsior. Cylinders should be stored in definitely assigned places away from elevators, stairs, or gangways. Assigned storage spaces shall be located where cylinders will not be knocked over or damaged by passing or falling objects, or subject to tampering by unauthorized persons. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards.

(c) Empty cylinders shall have their valves closed.

(d) Valve protection caps, where cylinder is designed to accept a cap, shall always be in place, hand-tight, except when cylinders are in use or connected for use.

(3) Fuel-gas cylinder storage. Inside a building, cylinders, except those in actual use or attached ready for use, shall be limited to a total gas capacity of ((2,000)) two thousand cubic feet or ((300)) three hundred pounds of liquefied petroleum gas.

(a) For storage in excess of ((2,000)) two thousand cubic feet total gas capacity of cylinders or ((300)) three hundred pounds of liquefied petroleum gas, a separate room or compartment conforming to the requirements specified in WAC 296-24-68211 (6)(h) and (i) shall be provided, or cylinders shall be kept outside or in a special building. Special buildings, rooms or compartments shall have no open flame for heating or lighting and shall be well ventilated. They may also be used

for storage of calcium carbide in quantities not to exceed ((600)) six hundred pounds, when contained in metal containers complying with WAC 296-24-68213 (1)(a) and (b). Signs should be conspicuously posted in such rooms reading, "Danger—No smoking, matches or open lights," or other equivalent wording.

(b) Acetylene cylinders shall be stored valve end up.

(4) Oxygen storage.

(a) Oxygen cylinders shall not be stored near highly combustible material, especially oil and grease; or near reserve stocks of carbide and acetylene or other fuel-gas cylinders, or near any other substance likely to cause or accelerate fire; or in an acetylene generator compartment.

(b) Oxygen cylinders stored in outside generator houses shall be separated from the generator or carbide storage rooms by a noncombustible partition having a fire-resistance rating of at least ((+) one hour. This partition shall be without openings and shall be gastight.

(c) Oxygen cylinders in storage shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of ((20)) twenty feet or by a noncombustible barrier at least ((5)) five feet high having a fire-resistance rating of at least one-half hour.

(d) Where a liquid oxygen system is to be used to supply gaseous oxygen for welding or cutting and the system has a storage capacity of more than ((13,000)) thirteen thousand cubic feet of oxygen (measured at 14.7 ((p.s.i.a.)) psi(a) and 70°F), connected in service or ready for service, or more than ((25,000)) twenty-five thousand cubic feet of oxygen (measured at 14.7 ((p.s.i.a.)) psi(a) and 70°F), including unconnected reserves on hand at the site, it shall comply with the provisions of the Standard for Bulk Oxygen Systems at Consumer Sites, NFPA No. 566-1965.

(5) Operating procedures.

(a) Cylinders, cylinder valves, couplings, regulators, hose, and apparatus shall be kept free from oily or greasy substances. Oxygen cylinders or apparatus shall not be handled with oily hands or gloves. A jet of oxygen must never be permitted to strike an oily surface, greasy clothes, or enter a fuel oil or other storage tank.

(b) When transporting cylinders by a crane or derrick, a cradle, boat, or suitable platform shall be used. Slings or electric magnets shall not be used for this purpose. Valve-protection caps, where cylinder is designed to accept a cap, shall always be in place.

(c) Cylinders shall not be dropped or struck or permitted to strike each other violently.

(d) Valve-protection caps shall not be used for lifting cylinders from one vertical position to another. Bars shall not be used under valves or valve-protection caps to pry cylinders loose when frozen to the ground or otherwise fixed; the use of warm (not boiling) water is recommended. Valve-protection caps are designed to protect cylinder valves from damage.

(e) Unless cylinders are secured on a special truck, regulators shall be removed and valve-protection caps, when provided for, shall be put in place before cylinders are moved.

(f) Cylinders not having fixed hand wheels shall have keys, handles, or nonadjustable wrenches on valve stems while these cylinders are in service. In multiple cylinder installations only one key or handle is required for each manifold.

(g) Cylinder valves shall be closed before moving cylinders.

(h) Cylinder valves shall be closed when work is finished.

(i) Valves of empty cylinders shall be closed.

(j) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag, or flame will not reach them, or fire-resistant shields shall be provided.

(k) Cylinders shall not be placed where they might become part of an electric circuit. Contacts with third rails, trolley wires, etc., shall be avoided. Cylinders shall be kept away from radiators, piping systems, layout tables, etc., that may be used for grounding electric circuits such as for arc welding machines. Any practice such as the tapping of an electrode against a cylinder to strike an arc shall be prohibited.

(l) Cylinders shall never be used as rollers or supports, whether full or empty.

(m) The numbers and markings stamped into cylinders shall not be tampered with.

(n) No person, other than the gas supplier, shall attempt to mix gases in a cylinder. No one, except the owner of the cylinder or person authorized by him, shall refill a cylinder.

(o) No one shall tamper with safety devices in cylinders or valves.

(p) Cylinders shall not be dropped or otherwise roughly handled.

(q) Unless connected to a manifold, oxygen from a cylinder shall not be used without first attaching an oxygen regulator to the cylinder valve. Before connecting the regulator to the cylinder valve, the valve shall be opened slightly for an instant and then closed. (Always stand to one side of the outlet when opening the cylinder valve.)

(r) A hammer or wrench shall not be used to open cylinder valves. If valves cannot be opened by hand, the supplier shall be notified.

(s) Cylinder valves shall not be tampered with nor should any attempt be made to repair them. If trouble is experienced, the supplier should be sent a report promptly indicating the character of the trouble and the cylinder's serial number. Supplier's instructions as to its disposition shall be followed.

(t) Complete removal of the stem from a diaphragm-type cylinder valve shall be avoided.

(u) Fuel-gas cylinders shall be placed with valve end up whenever they are in use. Liquefied gases shall be stored and shipped with the valve end up.

(v) Cylinders shall be handled carefully. Cylinders shall not be subjected to rough handling, knocks, or falls which are liable to damage the cylinder, valve or safety devices and cause leakage.

(w) Before connecting a regulator to a cylinder valve, the valve shall be opened slightly and closed immediately. The valve shall be opened while standing to one side of the outlet; never in front of it. Fuel-gas cylinder valves shall not be cracked near other welding work or near sparks, flame, or other possible sources of ignition.

(x) Before a regulator is removed from a cylinder valve, the cylinder valve shall be closed and the gas released from the regulator.

(y) Nothing shall be placed on top of an acetylene cylinder when in use which may damage the safety device or interfere with the quick closing of the valve.

(z) If cylinders are found to have leaky valves or fittings which cannot be stopped by closing of the valve, the cylinders shall be taken outdoors away from sources of ignition and slowly emptied.

((t+)) (aa) A warning should be placed near cylinders having leaking fuse plugs or other leaking safety devices not to approach them with a lighted cigarette or other source of ignition. Such cylinders should be plainly tagged; the supplier should be promptly notified and his instructions followed as to their return.

((t+)) (bb) Safety devices shall not be tampered with.

((t+)) (cc) Fuel-gas shall not be used from cylinders through torches or other devices equipped with shutoff valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

((t+)) (dd) The cylinder valve shall always be opened slowly.

((t+)) (ee) An acetylene cylinder valve shall not be opened more than one and one-half turns of the spindle, and preferably no more than three-fourths of a turn.

((t+)) (ff) Where a special wrench is required it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel-gas flow can be quickly turned off in case of emergency. In the case of manifolded or coupled cylinders at least one such wrench shall always be available for immediate use.

((t+)) (gg) When cylinders are transported by powered vehicle they shall be secured in a vertical position.

((t+)) (hh) A suitable cylinder truck, chain, or other steadyng device shall be used to prevent cylinders from being knocked over while in use.

NEW SECTION

WAC 296-62-07336 ACRYLONITRILE. (1) Scope and application.

(a) This section applies to all occupational exposure to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in (b) and (c) of this subsection.

(b) This section does not apply to exposures which result solely from the processing, use, and handling of the following materials:

(i) ABS resins, SAN resins, nitrile barrier resins, solid nitrile elastomers, and acrylic and modacrylic fibers, when these listed materials are in the form of finished polymers, and products fabricated from such finished polymers;

(ii) Materials made from and/or containing AN for which objective data is reasonably relied upon to demonstrate that the material is not capable of releasing AN in airborne concentrations in excess of 1 ppm as an eight-hour time-weighted average, under the expected conditions of processing, use, and handling which will cause the greatest possible release; and

(iii) Solid materials made from and/or containing AN which will not be heated above 170°F during handling, use, or processing.

(c) An employer relying upon exemption under (1)(b)(ii) shall maintain records of the objective data supporting that exemption, and of the basis of the employer's reliance on the data as provided in subsection (17) of this section.

(2) Definitions, as applicable to this section:

(a) "Acrylonitrile" or "AN" – acrylonitrile monomer, chemical formula CH₂=CHCN.

(b) "Action level" – a concentration of AN of 1 ppm as an eight-hour time-weighted average.

(c) "Authorized person" – any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under subsection (18) of this section.

(d) "Decontamination" means treatment of materials and surfaces by water washdown, ventilation, or other means, to assure that the materials will not expose employees to airborne concentrations of AN above 1 ppm as an eight-hour time-weighted average.

(e) "Director" – the director of labor and industries, or his authorized representative.

(f) "Emergency" – any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which is likely to, or does, result in unexpected exposure to AN in excess of the ceiling limit.

(g) "Liquid AN" means AN monomer in liquid form, and liquid or semiliquid polymer intermediates, including slurries, suspensions, emulsions, and solutions, produced during the polymerization of AN.

(h) "Polyacrylonitrile" or "PAN" – polyacrylonitrile homopolymers or copolymers, except for materials as exempted under subsection (1)(b) of this section.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of two parts acrylonitrile per million parts of air (2 ppm), as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of 10 ppm as averaged over any fifteen-minute period during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN or PAN.

(4) Notification of use and emergencies.

(a) Use. Within ten days of the effective date of this standard, or within fifteen days following the introduction of AN into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard, the following information to the director for each such workplace:

(i) The address and location of each workplace in which AN is present;

(ii) A brief description of each process of operation which may result in employee exposure to AN;

(iii) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN. Whenever there has been a significant change in the information required by this subsection, the employer shall promptly amend such information previously provided to the director.

(b) Emergencies and remedial action. Emergencies, and the facts obtainable at that time, shall be reported within 24 hours of the initial occurrence to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(5) Exposure monitoring.

(a) General.

(i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight-hour period.

(ii) For the purposes of this section, employee exposure is that which would occur if the employee were not using a respirator.

(b) Initial monitoring. Each employer who has a place of employment in which AN is present shall monitor each such workplace and

work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that the determinations are representative of employee exposures.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee. The employer shall continue these quarterly measurements until at least two consecutive measurements taken at least seven days apart, are below the action level, and thereafter the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(d) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this subsection shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 35 percent for concentrations of AN between the action level and the permissible exposure limits.

(g) Weekly survey of operations involving liquid AN. In addition to monitoring of employee exposures to AN as otherwise required by this subsection, the employer shall survey areas of operations involving liquid AN at least weekly to detect points where AN liquid or vapor are being released into the workplace. The survey shall employ an infrared gas analyzer calibrated for AN, a multipoint gas chromatographic monitor, or comparable system for detection of AN. A listing of levels detected and areas of AN release, as determined from the survey, shall be posted prominently in the workplace, and shall remain posted until the next survey is completed.

(6) Regulated areas.

(a) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(b) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(c) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the act or regulations issued pursuant thereto.

(d) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied, (except that these activities may be conducted in the lunchrooms, change rooms and showers required under subsections (13)(a)–(13)(c) of this section).

(7) Methods of compliance.

(a) Engineering and work practice controls.

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to AN, to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use

them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (8) of this section.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by subsection (7)(a) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) The employer shall complete the steps set forth in the compliance program by the dates in the schedule.

(iv) Written plans for such a program shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, or any affected employee or representative.

(v) The plans required by this subsection shall be revised and updated at least every six months to reflect the current status of the program.

(8) Respiratory protection.

(a) General. The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposure to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In emergencies.

(b) Respirator selection.

(i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table I and shall assure that the employee wears the respirator provided.

**TABLE I
RESPIRATORY PROTECTION FOR ACRYLONITRILE (AN)**

Concentration of AN or Condition of Use	Respirator Type
(a) Less than or equal to 25 x permissible exposure limits.	(i) Any Type C supplied air respirator.
(b) Less than or equal to 100 x permissible exposure limits.	(i) Any supplied air respirator with full facepiece; or (ii) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 250 x permissible exposure limits.	(i) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Greater than 250 x permissible exposure limits.	(i) Supplied air respirator with full facepiece and an auxiliary self-contained air supply, operated in pressure demand mode; or (ii) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentration or firefighting	(i) Any self-contained breathing apparatus with full facepiece in positive pressure mode.

Concentration of AN or Condition of Use

Respirator Type

(f) Escape.

- (i) Any organic vapor gas mask; or
- (ii) Any self-contained breathing.

(ii) The employer shall select respirators from those approved for use with AN by the National Institute for Occupational Safety and Health under the provisions of WAC 296-62-071.

(c) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) Testing. Fit testing of respirators shall be performed to assure that the respirator selected provides the protection required by Table I.

(A) Qualitative fit. The employer shall perform qualitative fit tests at the time of initial fitting and at least semiannually thereafter for each employee wearing respirators.

(B) Quantitative fit. Each employer with more than ten employees wearing negative pressure respirators shall perform quantitative fit testing at the time of initial fitting and at least semiannually thereafter for each such employee.

(iii) Employees who wear respirators shall be allowed to wash their faces and respirator facepieces to prevent potential skin irritation associated with respirator use.

(9) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace where AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in subsection (8) of this section until the emergency is abated.

(b) Alerting employees.

(i) Where there is the possibility of employee exposure to AN in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) Employees not engaged in correcting the emergency shall be evacuated from the area and shall not be permitted to return until the emergency is abated.

(10) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid AN or PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with WAC 296-24-07501 and 296-24-07801 to protect any area of the body which may come in contact with liquid AN or PAN.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection, as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that impermeable protective clothing which contacts or is likely to have contacted liquid AN shall be decontaminated before being removed by the employee.

(iii) The employer shall assure that AN- or PAN-contaminated protective clothing and equipment is placed and stored in closable containers which prevent dispersion of the AN or PAN outside the container.

(iv) The employer shall assure that an employee whose nonimpermeable clothing becomes wetted with liquid AN shall immediately remove that clothing and proceed to shower. The clothing shall be decontaminated before it is removed from the regulated area.

(v) The employer shall assure that no employee removes AN- or PAN-contaminated protective equipment or clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(vi) The employer shall inform any person who launders or cleans AN- or PAN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(vii) The employer shall assure that containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection

(16)(c)(ii) of this section, and that such labels remain affixed when such containers leave the employer's workplace.

(11) Housekeeping.

(a) All surfaces shall be maintained free of accumulations of liquid AN and of PAN.

(b) For operations involving liquid AN, the employer shall institute a program for detecting leaks and spills of liquid AN, including regular visual inspections.

(c) Where spills of liquid AN are detected, the employer shall assure that surfaces contacted by the liquid AN are decontaminated. Employees not engaged in decontamination activities shall leave the area of the spill, and shall not be permitted in the area until decontamination is completed.

(d) Liquids. Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(e) Surfaces.

(i) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where AN and PAN are found is prohibited.

(ii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c)(ii) of this section.

(iii) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(12) Waste disposal. AN and PAN waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labeled as prescribed in subsection (16)(c)(ii) of this section.

(13) Hygiene facilities and practices. Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to subsection (11) of this section, or where otherwise found to be appropriate, the facilities required by WAC 296-24-12009 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. In addition, the following facilities or requirements are mandated.

(a) Change rooms. The employer shall provide clean change rooms in accordance with WAC 296-24-12011.

(b) Showers.

(i) The employer shall provide shower facilities in accordance with WAC 296-24-12009(3).

(ii) In addition, the employer shall also assure that employees exposed to liquid AN and PAN shower at the end of the work shift.

(iii) The employer shall assure that, in the event of skin or eye exposure to liquid AN, the affected employee shall shower immediately to minimize the danger of skin absorption.

(c) Lunchrooms.

(i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to AN above the permissible exposure limits.

(ii) In addition, the employer shall also assure that employees exposed to AN above the permissible exposure limits wash their hands and face prior to eating.

(14) Medical surveillance.

(a) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Initial examinations. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or chronic exposure to AN.

(ii) A physical examination giving particular attention to central nervous system, gastrointestinal system, respiratory system, skin and thyroid.

(iii) A 14" x 17" posteroanterior chest x-ray.

(iv) Further tests of the intestinal tract, including fecal occult blood screening, and proctosigmoidoscopy, for all workers 40 years of age or older, and for any other affected employees for whom, in the opinion of the physician, such testing is appropriate.

(c) Periodic examinations.

(i) The employer shall provide examinations specified in this subsection at least annually for all employees specified in subsection (14)(a) of this section.

(ii) If an employee has not had the examinations prescribed in subsection (14)(b) of this section within six months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(d) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(e) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for pre-placement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(f) Physician's written opinion.

(i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and test performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(15) Employee information and training.

(a) Training program.

(i) The employer shall institute a training program for all employees where there is occupational exposure to AN and shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators and protective clothing;

(D) The purpose and a description of the medical surveillance program required by subsection (14) of this section;

- (E) The emergency procedures developed, as required by subsection (9) of this section; and
- (F) The engineering and work practice controls, their function and the employee's relationship thereto; and
- (G) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this subsection, which contradicts or detracts from such effects of the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER
ACRYLONITRILE (AN)
CANCER HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN, except for those materials for which objective data is provided as to the conditions specified in subsection (1)(b) of this section. The employer shall assure that the labels remain affixed when the AN or PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER
CONTAINS ACRYLONITRILE (AN)
CANCER HAZARD

(17) Recordkeeping.

(a) Objective data for exempted operations.

(i) Where the processing, use, and handling of products fabricated from PAN are exempted pursuant to subsection (1)(b) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in subsection (1)(b) upon which exemption is based;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of AN;

(D) A description of the operation exempted and how the data supports the exemption; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (5) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used and the data relied upon to establish that the methods used meet the accuracy and precision requirements of subsection (5)(f) of this section;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (14) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by subsection (14)(f) of this section; and

(D) A copy of the employee's medical and work history.

(iii) The employer shall assure that this record be maintained for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(d) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Records required by subdivisions (a) through (c) of this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. Records required by subdivision (a) of this section shall be provided in the same manner as exposure monitoring records.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(19) Effective date. This standard will become effective July 28, 1978.

(20) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligation not otherwise imposed, or to detract from any obligation.

NEW SECTION

WAC 296-62-07337 APPENDIX A—SUBSTANCE SAFETY DATA SHEET FOR ACRYLONITRILE. (1) Substance identification.

(a) Substance: Acrylonitrile (CH_2CHCN).

(b) Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acylon; carbacryl; fumigrian; ventox.

(c) Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, rubbers, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

(d) AN is used in the manufacture of acrylic and modiacrylic fibers, acrylic plastics and resins, speciality polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

(e) Appearance and odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13-19 parts AN per million parts of air (13-19 ppm).

(f) Permissible exposure: Exposure may not exceed either:

(i) Two parts AN per million parts of air (2 ppm) averaged over the eight-hour workday; or

(ii) Ten parts AN per million parts of air (10 ppm) averaged over any fifteen-minute period in the workday.

(iii) In addition, skin and eye contact with liquid AN is prohibited.

(2) Health hazard data.

(a) Acrylonitrile can affect your body if you inhale the vapor (breathing), if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

(b) Effects of overexposure:

(i) Short-term exposure: Acrylonitrile can cause eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

(ii) Long-term exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

(iii) Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms and suspect they are caused by exposure to acrylonitrile.

(3) Emergency first aid procedures.

(a) Eye exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

(b) Skin exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before reusing. Contaminated leather shoes or other leather articles should be discarded.

(c) Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

(d) Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

(e) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

(f) Special first aid procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls, each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

(4) Respirators and protective clothing.

(a) Respirators: (i) You may be required to wear a respirator for nonroutine activities, in emergencies, while your employer is in the

process of reducing acrylonitrile exposures through engineering controls, and in areas where engineering controls are not feasible. If respirators are worn, they must have a Mine Safety and Health Administration (MSHA or MESA) or National Institute for Occupational Safety and Health (NIOSH) label of approval for use with organic vapors. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

(ii) Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limits. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily or before the end-of-service-life, whichever comes first. Reuse of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(b) Supplied-air suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer must instruct you in their proper use and operation.

(c) Protective clothing:

(i) You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Where protective clothing is required, your employer is required to provide clean garments to you as necessary to assume that the clothing protects you adequately.

(ii) Replace or repair impervious clothing that has developed leaks.

(iii) Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes which are not impervious to acrylonitrile should not be allowed to become contaminated with acrylonitrile, and if they do the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered or discarded after the AN is removed. Once acrylonitrile penetrates shoes or other leather articles, they should not be worn again.

(d) Eye protection: You must wear splashproof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

(5) Precautions for safe use, handling, and storage.

(a) Acrylonitrile is a flammable liquid, and its vapors can easily form explosive mixtures in air.

(b) Acrylonitrile must be stored in tightly closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

(c) Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

(d) You should use nonsparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

(e) You must immediately remove any nonimpervious clothing that becomes wetted with acrylonitrile, and this clothing must not be reworn until the acrylonitrile is removed from the clothing.

(f) Impervious clothing wet with liquid acrylonitrile can be easily ignited. This clothing must be washed down with water before you remove it.

(g) If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

(h) You must not keep food, beverages, or smoking materials, nor are you permitted to eat or smoke in regulated areas where acrylonitrile concentrations are above the permissible exposure limits.

(i) If you contact liquid acrylonitrile, you must wash your hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

(j) Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

(k) Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

(6) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile.

In addition, your employer must instruct you in the proper work practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

(c) Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least forty years or for the period of your employment plus twenty years, whichever is longer.

(d) Your employer is required to release your exposure and medical records to you or your representative upon your request.

NEW SECTION

WAC 296-62-07338 APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES FOR ACRYLONITRILE. (1) Physical and chemical data.

(a) Substance identification:

(i) Synonyms: AN; VCN; vinyl cyanide; propenenitrile; cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

(ii) Formula: CH₂=CHCN.

(iii) Molecular weight: 53.1.

(b) Physical data:

(i) Boiling point (760 mm Hg): 77.3°C (171°F);

(ii) Specific gravity (water=1): 0.81 (at 20°C or 68°F);

(iii) Vapor density (air=1 at boiling point of acrylonitrile): 1.83;

(iv) Melting point: -83°C (-117°F);

(v) Vapor pressure (@20°F): 83 mm Hg;

(vi) Solubility in water, percent by weight @20°C (68°F): 7.35;

(vii) Evaporation rate (Butyl Acetate=1): 4.54; and

(viii) Appearance and odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

(2) Fire, explosion, and reactivity hazard data.

(a) Fire:

(i) Flash point: -1°C (30°F) (closed cup).

(ii) Autoignition temperature: 481°C (898°F).

(iii) Flammable limits air, percent by volume: Lower: 3, Upper: 17.

(iv) Extinguishing media: Alcohol foam, carbon dioxide, and dry chemical.

(v) Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water to cool containers exposed to a fire.

(vi) Unusual fire and explosion hazards: Acrylonitrile is a flammable liquid. Its vapors can easily form explosive mixtures with air. All ignition sources must be controlled where acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard. Acrylonitrile vapors are heavier than air and may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which acrylonitrile is being handled.

(vii) For purposes of compliance with the requirements of WAC 296-24-330, acrylonitrile is classified as a class IB flammable liquid. For example, 7,500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

(viii) For purposes of compliance with WAC 296-24-59207, acrylonitrile is classified as a Class B fire hazard.

(ix) For purpose of compliance with WAC 296-24-95613, locations classified as hazardous due to the presence of acrylonitrile shall be Class I, Group D.

(b) Reactivity:

(i) Conditions contributing to instability: Acrylonitrile will polymerize when hot, and the additional heat liberated by the polymerization may cause containers to explode. Pure AN may self-polymerize, with a rapid build-up of pressure, resulting in an explosion hazard. Inhibitors are added to the commercial product to prevent self-polymerization.

(ii) Incompatibilities: Contact with strong oxidizers (especially bromine) and strong bases may cause fires and explosions. Contact with copper, copper alloys, ammonia, and amines may start serious decomposition.

(iii) Hazardous decomposition products: Toxic gases and vapors (such as hydrogen cyanide, oxides of nitrogen, and carbon monoxide)

may be released in a fire involving acrylonitrile and certain polymers made from acrylonitrile.

(iv) Special precautions: Liquid acrylonitrile will attack some forms of plastics, rubbers, and coatings.

(3) Spill, leak, and disposal procedures.

(a) If acrylonitrile is spilled or leaked, the following steps should be taken:

(i) Remove all ignition sources.

(ii) The area should be evacuated at once and re-entered only after the area has been thoroughly ventilated and washed down with water.

(iii) If liquid acrylonitrile or polymer intermediate, collect for reclamation or absorb in paper, vermiculite, dry sand, earth, or similar material, or wash down with water into process sewer system.

(b) Persons not wearing protective equipment should be restricted from areas of spills or leaks until clean-up has been completed.

(c) Waste disposal methods: Waste materials shall be disposed of in a manner that is not hazardous to employees or to the general population. Spills of acrylonitrile and flushing of such spills shall be channeled for appropriate treatment or collection for disposal. They shall not be channeled directly into the sanitary sewer system. In selecting the method of waste disposal, applicable local, state, and federal regulations should be consulted.

(4) Monitoring and measurement procedures.

(a) Exposure above the permissible exposure limit:

(i) Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single eight-hour sample or two four-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

(ii) Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three measurements should be taken on one work shift. The average of all measurements taken is an estimate of the employee's ceiling exposure.

(iii) Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal adsorption tubes or other composition adsorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as real-time continuous monitoring systems, portable direct-reading instruments, or passive dosimeters. Analysis of resultant samples should be by gas chromatograph.

(iv) Appendix D lists methods of sampling and analysis which have been tested by NIOSH and OSHA for use with acrylonitrile. NIOSH and OSHA have validated modifications of NIOSH Method S-156 (See Appendix D) under laboratory conditions for concentrations below 1 ppm. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his/her unique field conditions. The standard requires that methods of monitoring must be accurate, to a 95-percent confidence level, to ± 35 -percent for concentrations of AN at or above 2 ppm, and to ± 50 -percent for concentrations below 2 ppm. In addition to the methods described in Appendix D, there are numerous other methods available for monitoring for AN in the workplace. Details on these other methods have been submitted by various companies to the rulemaking record, and are available at the OSHA Docket Office.

(b) Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

(5) Protective clothing.

(a) Employees shall be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with liquid AN. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, as appropriate to protect areas of the body which may come in contact with liquid AN.

(b) Employers should ascertain that the protective garments are impermeable to acrylonitrile. Nonimpermeable clothing and shoes should not be allowed to become contaminated with liquid AN. If permeable clothing does become contaminated, it should be promptly removed, placed in a regulated area for removal of the AN, and not worn again until the AN is removed. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn

again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering which may result from skin contact with liquid AN, it is essential that the employee be informed of this hazard so that he or she can be protected.

(c) Any protective clothing which has developed leaks or is otherwise found to be defective shall be repaired or replaced. Clean protective clothing shall be provided to the employee as necessary to assure its protectiveness. Whenever impervious clothing becomes wet with liquid AN, it shall be washed down with water before being removed by the employee. Employees are also required to wear splash-proof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

(6) Housekeeping and hygiene facilities. For purposes of complying with WAC 296-24-120, the following items should be emphasized:

(a) The workplace should be kept clean, orderly, and in a sanitary condition. The employer is required to institute a leak and spill detection program for operations involving liquid AN in order to detect sources of fugitive AN emissions.

(b) Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN may be found.

(c) Adequate washing facilities with hot and cold water are to be provided, and maintained in a sanitary condition. Suitable cleansing agents are also to be provided to assure the effective removal of acrylonitrile from the skin.

(d) Change or dressing rooms with individual clothes storage facilities must be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be placed in a regulated area designated by the employer for removal of the AN before the clothing is laundered or disposed of.

(7) Miscellaneous precautions.

(a) Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area and take necessary precautions to avoid any explosion hazard.

(b) High exposures to acrylonitrile can occur when transferring the liquid from one container to another.

(c) Nonsparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

(d) Never store uninhibited acrylonitrile.

(e) Acrylonitrile vapors are not inhibited.

They may form polymers and clog vents of storage tanks.

(f) Use of supplied-air suits or other impervious coverings may be necessary to prevent skin contact with and provide respiratory protection from acrylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

(g) Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

(8) Common operations. Common operations in which exposure to acrylonitrile is likely to occur include the following: Manufacture of the acrylonitrile monomer; synthesis of acrylic fibers, ABS, SAN, and nitrile barrier plastics and resins, nitrile rubber, surface coatings, specialty chemicals; use as a chemical intermediate; use as a fumigant; and in the cyanoethylation of cotton.

NEW SECTION

WAC 296-62-07339 APPENDIX C—MEDICAL SURVEILANCE GUIDELINES FOR ACRYLONITRILE. (1) Route of entry.

- (a) Inhalation;
- (b) Skin absorption;
- (c) Ingestion;
- (2) Toxicology.

(a) Acrylonitrile vapor is an asphyxiant due to inhibitory action on metabolic enzyme systems. Animals exposed to 75 or 100 ppm for seven hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported; one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure

to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contact with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

(b) Results after one year of a planned two-year animal study on the effects of exposure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

(c) In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, S.C. acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancers among employees exposed to acrylonitrile.

(3) Signs and symptoms of acute overexposure. Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin with appearance of a second-degree burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

(4) Treatment of acute overexposure. Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed, and person is conscious, induce vomiting. Give artificial respiration if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

(5) Surveillance and preventive considerations.

(a) As noted above, exposure to acrylonitrile has been linked to increased incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

(b) Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrates leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

(c) It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

(d) Surveillance and screening. Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level. The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

(i) Central nervous system dysfunction. Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

(ii) Respiratory disease. The duPont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

(iii) Gastrointestinal disease. The duPont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumor production in the stomachs of the rats in the ingestion study.

(iv) Skin disease. Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

(e) General. The purpose of the medical procedures outlined in the standard is to establish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastro-intestinal systems, the cardiovascular system, liver, and kidney function should also be stressed.

NEW SECTION

WAC 296-62-07340 APPENDIX D—SAMPLING AND ANALYTICAL METHODS FOR ACRYLONITRILE. (1) There are many methods available for monitoring employee exposures to acrylonitrile. Most of these involve the use of charcoal tubes and sampling pumps, with analysis by gas chromatograph. The essential differences between the charcoal tube methods include, among others, the use of different desorbing solvents, the use of different lots of charcoal, and the use of different equipment for analysis of the samples.

(2) Besides charcoal, considerable work has been performed on methods using porous polymer sampling tubes and passive dosimeters. In addition, there are several portable gas analyzers and monitoring units available on the open market.

(3) This appendix contains details for the methods which have been tested at OSHA Analytical Laboratory in Salt Lake City, and NIOSH in Cincinnati. Each is a variation on NIOSH Method S-156, which is also included for reference. This does not indicate that these methods are the only ones which will be satisfactory. There also may be workplace situations in which these methods are not adequate, due to such factors as high humidity. Copies of the other methods available to OSHA are available in the rulemaking record, and may be obtained from the OSHA Docket Office. These include, the Union Carbide, Monsanto, Dow Chemical and Dow Badische methods, as well as NIOSH Method P & CAM 127.

(4) Employers who note problems with sample breakthrough should try larger charcoal tubes. Tubes of larger capacity are available, and are often used for sampling vinyl chloride. In addition, lower flow rates and shorter sampling times should be beneficial in minimizing breakthrough problems.

(5) Whatever method the employer chooses, he must assure himself of the method's accuracy and precision under the unique conditions present in his workplace.

(6) NIOSH Method S-156 (unmodified)

Analyte: Acrylonitrile.

Matrix: Air.

Procedure: Absorption on charcoal, desorption with methanol, GC.

(a) Principle of the method. Reference (k)(i) of this subsection.

(i) A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

(ii) The charcoal in the tube is transferred to a small, stoppered sample container, and the analyte is desorbed with methanol.

(iii) An aliquot of the desorbed sample is injected into a gas chromatograph.

(iv) The area of the resulting peak is determined and compared with areas obtained for standards.

(b) Range and sensitivity.

(i) This method was validated over the range of 17.5–70.0 mg/cu m at an atmospheric temperature and pressure of 22°C and 760 mm Hg, using a twenty-liter sample. Under the conditions of sample size (20 liters) the probable useful range of this method is 4.5–135 mg/cu m. The method is capable of measuring much smaller amounts if the desorption efficiency is adequate. Desorption efficiency must be determined over the range used.

(ii) The upper limit of the range of the method is dependent on the adsorptive capacity of the charcoal tube. This capacity varies with the concentrations of acrylonitrile and other substances in the air. The first section of the charcoal tube was found to hold at least 3.97 mg of acrylonitrile when a test atmosphere containing 92.0 mg/cu m of acrylonitrile in air was sampled 0.18 liter per minute for 240 minutes; at that time the concentration of acrylonitrile in the effluent was less than 5 percent of that in the influent. (The charcoal tube consists of two sections of activated charcoal separated by a section of urethane foam. See (f)(ii) of this subsection. If a particular atmosphere is suspected of containing a large amount of contaminant, a smaller sampling volume should be taken.

(c) Interference.

(i) When the amount of water in the air is so great that condensation actually occurs in the tube, organic vapors will not be trapped efficiently. Preliminary experiments using toluene indicate that high humidity severely decreases the breakthrough volume.

(ii) When interfering compounds are known or suspected to be present in the air, such information, including their suspected identities, should be transmitted with the sample.

(iii) It must be emphasized that any compound which has the same retention time as the analyte at the operating conditions described in this method is an interference. Retention time data on a single column cannot be considered proof of chemical identity.

(iv) If the possibility of interference exists, separation conditions (column packing, temperature, etc.) must be changed to circumvent the problem.

(d) Precision and accuracy.

(i) The Coefficient of Variation (CV_i) for the total analytical and sampling method in the range of 17.5–70.0 mg/cu m was 0.073. This value corresponds to a 3.3 mg/cu m standard deviation at the (previous) OSHA standard level (20 ppm). Statistical information and details of the validation and experimental test procedures can be found in (k)(ii) of this subsection.

(ii) On the average the concentrations obtained at the 20 ppm level using the overall sampling and analytical method were 6.0 percent lower than the "true" concentrations for a limited number of laboratory experiments. Any difference between the "found" and "true" concentrations may not represent a bias in the sampling and analytical method, but rather a random variation from the experimentally determined "true" concentration. Therefore, no recovery correction should be applied to the final result in (j)(v) of this subsection.

(e) Advantages and disadvantages of the method.

(i) The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.

(ii) The method can also be used for the simultaneous analysis of two or more substances suspected to be present in the same sample by simply changing gas chromatographic conditions.

(iii) One disadvantage of the method is that the amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.

(iv) Furthermore, the precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.

(f) Apparatus.

(i) A calibrated personal sampling pump whose flow can be determined within ± 5 percent at the recommended flow rate. Reference (k)(iii) of this subsection.

(ii) Charcoal tubes: Glass tubes with both ends flame sealed, 7 cm long with a 6 mm O.D. and a 4 mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2 mm portion of urethane foam. The activated charcoal is prepared from coconut shells and is fired at 600°C prior to packing. The adsorbing section contains 100 mg of charcoal, the backup section 50 mg. A 3 mm portion of urethane foam is placed between the outlet end of the tube and the backup section. A plug of silicated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than 1 inch of mercury at a flow rate of 1 liter per minute.

(iii) Gas chromatograph equipped with a flame ionization detector.

(iv) Column (4 ft \times 1/4 in stainless steel) packed with 50/80 mesh Poropak, type Q.

(v) An electronic integrator or some other suitable method for measuring peak areas.

(vi) Two-milliliter sample containers with glass stoppers or Teflon-lined caps. If an automatic sample injector is used, the associated vials may be used.

(vii) Microliter syringes: ten-microliter and other convenient sizes for making standards.

(viii) Pipets: 1.0 ml delivery pipets.

(ix) Volumetric flask: 10 ml or convenient sizes for making standard solutions.

(g) Reagents.

(i) Chromatographic quality methanol.

(ii) Acrylonitrile, reagent grade.

(iii) Hexane, reagent grade.

(iv) Purified nitrogen.

(v) Prepurified hydrogen.

(vi) Filtered compressed air.

(h) Procedure.

(i) Cleaning of equipment. All glassware used for the laboratory analysis should be detergent washed and thoroughly rinsed with tap water and distilled water.

(ii) Calibration of personal pumps. Each personal pump must be calibrated with a representative charcoal tube in the line. This will minimize errors associated with uncertainties in the sample volume collected.

(iii) Collection and shipping of samples.

(A) Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2mm).

(B) The smaller section of charcoal is used as a backup and should be positioned nearest the sampling pump.

(C) The charcoal tube should be placed in a vertical direction during sampling to minimize channeling through the charcoal.

(D) Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

(E) A maximum sample size of 20 liters is recommended. Sample at a flow of 0.20 liter per minute or less. The flow rate should be known with an accuracy of at least ± 5 percent.

(F) The temperature and pressure of the atmosphere being sampled should be recorded. If pressure reading is not available, record the elevation.

(G) The charcoal tubes should be capped with the supplied plastic caps immediately after sampling. Under no circumstances should rubber caps be used.

(H) With each batch of ten samples submit one tube from the same lot of tubes which was used for sample collection and which is subjected to exactly the same handling as the samples except that no air is drawn through it. Label this as a blank.

(I) Capped tubes should be packed tightly and padded before they are shipped to minimize tube breakage during shipping.

(J) A sample of the bulk material should be submitted to the laboratory in a glass container with a Teflon-lined cap. This sample should not be transported in the same container as the charcoal tubes.

(iv) Analysis of samples.

(A) Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2 ml stoppered sample container. The separating section of foam is removed and discarded; the second section is transferred to another stoppered container. These two sections are analyzed separately.

(B) Desorption of samples. Prior to analysis, 1.0 ml of methanol is pipetted into each sample container. Desorption should be done for 30 minutes. Tests indicate that this is adequate if the sample is agitated occasionally during this period. If an automatic sample injector is used, the sample vials should be capped as soon as the solvent is added to minimize volatilization.

(C) GC conditions. The typical operating conditions for the gas chromatograph are:

(I) 50 ml/min (60 psig) nitrogen carrier gas flow.

(II) 65 ml/min (24 psig) hydrogen gas flow to detector.

(III) 500 ml/min (50 psig) air flow to detector.

(IV) 235°C injector temperature.

(V) 255°C manifold temperature (detector).

(VI) 155°C column temperature.

(D) Injection. The first step in the analysis is the injection of the sample into the gas chromatograph. To eliminate difficulties arising from blowback or distillation within the syringe needle, one should employ the solvent flush injection technique. The 10-microliter syringe is first flushed with solvent several times to wet the barrel and plunger. Three microliters of solvent are drawn into the syringe to increase the accuracy and reproducibility of the injected sample volume. The needle is removed from the solvent, and the plunger is pulled back about 0.2 microliter to separate the solvent flush from the sample with a pocket of air to be used as a marker. The needle is then immersed in the sample, and a five microliter aliquot is withdrawn, taking into consideration the volume of the needle, since the sample in the needle will be completely injected. After the needle is removed from the sample and prior to injection, the plunger is pulled back 1.2 microliters to minimize evaporation of the sample from the tip of the needle. Observe that the sample occupies 4.9–5.0 microliters in the barrel of the syringe. Duplicate injections of each sample and standard should be made. No more than a 3 percent difference in area is to be expected. An automatic sample injector can be used if it is shown to give reproducibility at least as good as the solvent flush method.

(E) Measurement of area. The area of the sample peak is measured by an electronic integrator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussed below.

(v) Determination of desorption efficiency.

(A) Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necessary to determine at least once the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

(B) Procedure for determining desorption efficiency.

(I) Activated charcoal equivalent to the amount in the first section of the sampling tube (100 mg) is measured into a 2.5 in., 4 mm I.D. glass tube, flame sealed at one end. This charcoal must be from the same batch as that used in obtaining the samples and can be obtained from unused charcoal tubes. The open end is capped with Parafilm. A known amount of hexane solution of acrylonitrile containing 0.239 g/ml is injected directly into the activated charcoal with a microliter syringe, and tube is capped with more Parafilm. When using an automatic sample injector, the sample injector vials, capped with Teflon-faced septa, may be used in place of the glass tube.

(II) The amount injected is equivalent to that present in a twenty-liter air sample at the selected level.

(III) Six tubes at each of three levels (0.5X, 1X, and 2X of the standard) are prepared in this manner and allowed to stand for at least overnight to assure complete adsorption of the analyte onto the charcoal. These tubes are referred to as the sample. A parallel blank tube should be treated in the same manner except that no sample is added to it. The sample and blank tubes are desorbed and analyzed in exactly the same manner as the sampling tube described in (h)(iv) of this subsection.

(IV) Two or three standards are prepared by injecting the same volume of compound into 1.0 ml of methanol with the same syringe used in the preparation of the samples. These are analyzed with the samples.

(V) The desorption efficiency (D.E.) equals the average weight in mg recovered from the tube divided by the weight in mg added to the tube, or

$$D.E. = \frac{\text{Average weight recovered (mg)}}{\text{weight added (mg)}}$$

(VI) The desorption efficiency is dependent on the amount of analyte collected on the charcoal. Plot the desorption efficiency versus weight of analyte found. This curve is used in (j)(iv) of this subsection to correct for adsorption losses.

(i) Calibration and standards. It is convenient to express concentration of standards in terms of mg/1.0 ml methanol, because samples are desorbed in this amount of methanol. The density of the analyte is used to convert mg into microliters for easy measurement with a microliter syringe. A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are established by plotting concentration in mg/1.0 ml versus peak area.

Note—Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the FID response.

(j) Calculations.

(i) Read the weight, in mg, corresponding to each peak area from the standard curve. No volume corrections are needed, because the standard curve is based on mg/1.0 ml methanol and the volume of sample injected is identical to the volume of the standards injected.

(ii) Corrections for the bank must be made for each sample.

$$\text{mg} = \text{mg sample} - \text{mg blank}$$

Where:

mg sample = mg found in front section of sample tube.

mg sample = mg found in front section of blank tube.

Note: A similar procedure is followed for the backup sections.

(iii) Add the weights found in the front and backup sections to get the total weight in the sample.

(iv) Read the desorption efficiency from the curve (reference (h)(v)(B) of this subsection) for the amount found in the front section.

Divide the total weight by this desorption efficiency to obtain the corrected mg/sample.

$$\text{Corrected mg/sample} = \frac{\text{Total weight}}{\text{D.E.}}$$

(v) The concentration of the analyte in the air sampled can be expressed in mg/cu m.

$$\text{mg/cu m} = \text{Corrected mg (see (j)(iv))} \times \frac{1,000 \text{ (liter/cu m)}}{\text{air volume sampled (liter)}}$$

(vi) Another method of expressing concentration is ppm.

$$\text{ppm} = \text{mg/cu m} \times 24.45 / \text{M.W.} \times 760 / \text{P} \times \text{T} + 273 / 298$$

Where:

P = Pressure (mm Hg) of air sampled.

T = Temperature (°C) of air sampled.

24.45 = Molar volume (liter/mole) at 25°C and 760 mm Hg.

M.W. = Molecular weight (g/mole) of analyte.

760 = Standard pressure (mm Hg).

298 = Standard temperature (°K).

(k) References.

(i) White, L. D. et al., "A Convenient Optimized Method for the Analysis of Selected Solvent Vapors in the Industrial Atmosphere", Amer. Ind. Hyg. Assoc. J., 31:225 (1970).

(ii) Documentation of NIOSH Validation Tests, NIOSH Contract No. CDC-99-74-45.

(iii) Final Report, NIOSH Contract HSM-99-71-31, "Personal Sampler Pump for Charcoal Tubes", September 15, 1972.

(7) NIOSH Modification of NIOSH Method S-156. The NIOSH recommended method for low levels for acrylonitrile is a modification of method S-156. It differs in the following respects:

(a) Samples are desorbed using 1 ml of 1 percent acetone in CS₂ rather than methanol.

(b) The analytical column and conditions are:

(i) Column: 20 percent SP-1000 on 80/100 Supelcoport 10 feet × 1/8 inch S.S.

(ii) Conditions:

Injector temperature: 200°C.

Detector temperature: 100°C.

Column temperature: 85°C.

Helium flow: 25 ml/min.

Air flow: 450 ml/min.

Hydrogen flow: 55 ml/min.

(c) A 2 μl injection of the desorbed analyte is used.

(d) A sampling rate of 100 ml/min is recommended.

(8) OSHA Laboratory Modification of NIOSH Method S-156.

(a) Analyte: Acrylonitrile.

(b) Matrix: Air.

(c) Procedure: Adsorption on charcoal, desorption with methanol, GC.

(d) Principle of the method (subsection (1)(a) of this section).

(i) A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

(ii) The charcoal in the tube is transferred to a small, stoppered sample vial, and the analyte is desorbed with methanol.

(iii) An aliquot of the desorbed sample is injected into a gas chromatograph.

(iv) The area of the resulting peak is determined and compared with areas obtained for standards.

(e) Advantages and disadvantages of the method.

(i) The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.

(ii) This method may not be adequate for the simultaneous analysis of two or more substances.

(iii) The amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.

(iv) The precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.

(f) Apparatus.

(i) A calibrated personal sampling pump whose flow can be determined within ±5 percent at the recommended flow rate.

(ii) Charcoal tubes: Glass tube with both ends flame sealed, 7 cm long with a 6 mm O.D. and a 4 mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2 mm portion of urethane foam. The activated charcoal is prepared from coconut shells and is fired at 600°C prior to packing. The absorbing section contains 100 mg of charcoal, the back-up section 50 mg. A 3 mm portion of urethane foam is placed between the outlet end of the tube and the back-up section. A plug of silicated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than one inch of mercury at a flow rate of 1 liter per minute.

(iii) Gas chromatograph equipped with a nitrogen phosphorus detector.

(iv) Column (10 ft × 1/8 in stainless steel) packed with 100/120 Supelcoport coated with 10 percent SP 1000.

(v) An electronic integrator or some other suitable method for measuring peak area.

(vi) Two-milliliter sample vials with Teflon-lined caps.

(vii) Microliter syringes: 10 microliter, and other convenient sizes for making standards.

(viii) Pipets: 1.0 ml delivery pipets.

(ix) Volumetric flasks: convenient sizes for making standard solutions.

(g) Reagents.

(i) Chromatographic quality methanol.

(ii) Acrylonitrile, reagent grade.

(iii) Filtered compressed air.

(iv) Purified hydrogen.

(v) Purified helium.

(h) Procedure.

(i) Cleaning of equipment. All glassware used for the laboratory analysis should be properly cleaned and free of organics which could interfere in the analysis.

(ii) Calibration of personal pumps. Each pump must be calibrated with a representative charcoal tube in the line.

(iii) Collection and shipping of samples.

(A) Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).

(B) The smaller section of the charcoal is used as the backup and should be placed nearest the sampling pump.

(C) The charcoal should be placed in a vertical position during sampling to minimize channeling through the charcoal.

(D) Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

(E) A sample size of 20 liters is recommended. Sample at a flow rate of approximately 0.2 liters per minute. The flow rate should be known with an accuracy of at least ±5 percent.

(F) The temperature and pressure of the atmosphere being sampled should be recorded.

(G) The charcoal tubes should be capped with the supplied plastic caps immediately after sampling. Rubber caps should not be used.

(H) Submit at least one blank tube (a charcoal tube subjected to the same handling procedures, without having any air drawn through it) with each set of samples.

(I) Take necessary shipping and packing precautions to minimize breakage of samples.

(iv) Analysis of samples.

(A) Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2 ml vial. The separating section of foam is removed and discarded; the section is transferred to another capped vial. These two sections are analyzed separately.

(B) Desorption of samples. Prior to analysis, 1.0 ml of methanol is pipetted into each sample container. Desorption should be done for 30 minutes in an ultrasonic bath. The sample vials are recapped as soon as the solvent is added.

(C) GC conditions. The typical operating conditions for the gas chromatograph are:

(I) 30 ml/min (60 psig) helium carrier gas flow.

(II) 3.0 ml/min (30 psig) hydrogen gas flow to detector.

(III) 50 ml/min (60 psig) air flow to detector.

(IV) 200°C injector temperature.

(V) 200°C dejector temperature.
 (VI) 100°C column temperature.
 (D) Injection. Solvent flush technique or equivalent.
 (E) Measurement of area. The area of the sample peak is measured by an electronic integrator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussed below.

(v) Determination of desorption efficiency.

(A) Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necessary to determine, at least once, the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

(B) Procedure for determining desorption efficiency. The reference portion of the charcoal tube is removed. To the remaining portion, amounts representing 0.5X, 1X, and 2X (X represents TLV) based on a 20 l air sample are injected onto several tubes at each level. Dilutions of acrylonitrile with methanol are made to allow injection of measurable quantities. These tubes are then allowed to equilibrate at least overnight. Following equilibration they are analyzed following the same procedure as the samples. A curve of the desorption efficiency (amt recovered/amt added) is plotted versus amount of analyte found. This curve is used to correct for adsorption losses.

(i) Calibration and standards. A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are prepared by plotting concentration versus peak area.

Note: Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the NPD response. Multiple injections are necessary.

(j) Calculations. Read the weight, corresponding to each peak area from the standard curve, correct for the blank, correct for the desorption efficiency, and make necessary air volume corrections.

(k) Reference. NIOSH Method S-156.

NEW SECTION

WAC 296-62-07342 1,2-DIBROMO-3-CHLOROPROPANE.

(1) Scope and application.

(a) This section applies to occupational exposure to 1,2-dibromo-3-chloropropane (DBCP).

(b) This section does not apply to:

(i) Exposure to DBCP which results solely from the application and use of DBCP as a pesticide; or

(ii) The storage, transportation, distribution or sale of DBCP in intact containers sealed in such a manner as to prevent exposure to DBCP vapors or liquids, except for the requirements of subsections (11), (16) and (17) of this section.

(2) Definitions applicable to this section:

(a) "Authorized person" – any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

(b) "DBCP" – 1,2-dibromo-3-chloropropane, Chemical Abstracts Service Registry Number 96-12-8, and includes all forms of DBCP.

(c) "Director" – the director of labor and industries, or his authorized representative.

(d) "Emergency" – any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may, or does, result in unexpected release of DBCP.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration in excess of 1 part DBCP per billion parts of air (ppb) as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration in excess of 5 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(4) Notification of use. Within ten days of the effective date of this section or within ten days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the director for each such workplace:

(a) The address and location of each workplace in which DBCP is present;

(b) A brief description of each process or operation which may result in employee exposure to DBCP;

(c) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(d) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(5) Regulated areas. The employer shall establish, within each place of employment, regulated areas wherever DBCP concentrations are in excess of the permissible exposure limit.

(a) The employer shall limit access to regulated areas to authorized persons.

(b) All employees entering or working in a regulated area shall wear respiratory protection in accordance with Table I.

(6) Exposure monitoring.

(a) General. Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an eight-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(b) Initial. Each employer who has a place of employment in which DBCP is present shall monitor each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(d) Additional. Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to DBCP, additional monitoring which complies with subsection (6) shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(7) Methods of compliance.

(a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to DBCP at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Where feasible engineering and work practice controls are not sufficient to reduce employee exposures to within the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by use of respiratory protection.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposure to DBCP to or below the permissible exposure limit solely by means of engineering and work practice controls as required by this section.

(ii) The written program shall include a detailed schedule for development and implementation of the engineering and work practice controls. These plans shall be revised at least every six months to reflect the current status of the program.

(iii) Written plans for these compliance programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or designated representative of employees.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(8) Respirators.

(a) General. Where respiratory protection is required under this section, the employer shall select, provide and assure the proper use of respirators.

(b) Respirators shall be used in the following circumstances:

(i) During the period necessary to install or implement feasible engineering and work practice controls; or

(ii) During maintenance and repair activities in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(9) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator from Table I of this section and shall assure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE I
RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(a) 10 ppb:	(i) Any supplied-air respirator. (ii) Any self-contained breathing apparatus.
(b) 50 ppb:	(i) Any supplied-air respirator with full facepiece, helmet or hood. (ii) Any self-contained breathing apparatus with full facepiece.
(c) 250 ppb:	(i) A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
(d) 500 ppb:	(i) A Type C supplied-air respirator with full facepiece operated in pressure-demand mode with full facepiece.
(e) Greater than 500 ppb or entry into unknown concentrations:	(i) A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand mode and an auxiliary self-contained breathing apparatus. (ii) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.
(f) Firefighting:	(i) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

(c) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(10) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace in which DBCP is present.

(ii) Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) Employees engaged in correcting conditions shall be equipped as required in subsection (11) of this section until the emergency is abated.

(c) Evacuation. Employees not engaged in correcting the emergency shall be removed and restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.

(d) Alerting employees. Where there is a possibility of employee exposure to DBCP due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(e) Medical surveillance. For any employee exposed to DBCP in an emergency situation, the employer shall provide medical surveillance in accordance with subsection (14) of this section.

(f) Exposure monitoring.

(i) Following an emergency, the employer shall conduct monitoring which complies with subsection (6) of this section.

(ii) In workplaces not normally subject to periodic monitoring, the employer may terminate monitoring when two consecutive measurements indicate exposures below the permissible exposure limit.

(11) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with WAC 296-24-07501 and 296-24-07801 to protect the area of the body which may come in contact with DBCP.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.

(ii) Removal and storage.

(A) The employer shall assure that employees remove DBCP contaminated work clothing only in change rooms provided in accordance with subsection (13) of this section.

(B) The employer shall assure that employees promptly remove any protective clothing and equipment which becomes contaminated with DBCP-containing liquids and solids. This clothing shall not be re worn until the DBCP has been removed from the clothing or equipment.

(C) The employer shall assure that no employee takes DBCP contaminated protective devices and work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(12) Housekeeping.

(a) Surfaces.

(i) All surfaces shall be maintained free of accumulations of DBCP.
(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(b) Liquids. Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(c) Waste disposal. DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(13) Hygiene facilities and practices. Hygiene facilities shall be provided and practices implemented in accordance with the requirements of WAC 296-24-12009.

(14) Medical surveillance.

(a) General. The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Frequency and content. Within 30 days of the effective date of this section or time of initial assignment, and whenever exposure to DBCP, the employer shall provide a medical examination including at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

- (A) Sperm count;
- (B) Complete urinalysis (U/A);
- (C) Complete blood count; and
- (D) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made by radioimmunoassay techniques utilizing National Institutes of Health (NIH) specific antigen or one of equivalent sensitivity:

- (A) Serum multiphasic analysis (SMA 12);
- (B) Serum follicle stimulating hormone (FSH);
- (C) Serum luteinizing hormone (LH); and
- (D) Serum estrogen (females).

(iv) Any other tests deemed appropriate by the examining physician.

(c) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to DBCP, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The level of DBCP to which the employee is exposed; and

(iv) A description of any personal protective equipment used or to be used.

(e) Physician's written opinion.

(i) For each examination under this section, the employer shall obtain and provide the employee with a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;

(C) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(f) Emergency situations. If the employee is exposed to DBCP in an emergency situation, the employer shall provide the employee with a

sperm count test as soon as practicable, or, if the employee is unable to produce a semen specimen, the hormone tests contained in subsection (14)(b) of this section. The employer shall provide these same tests three months later.

(15) Employee information and training.

(a) Training program.

(i) Within thirty days of the effective date of this standard, the employer shall institute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and description of the medical surveillance program required by subsection (14) of this section; and

(E) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER

1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this subsection need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER

1,2-DIBROMO-3-CHLOROPROPANE

CANCER HAZARD

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (6) of this section.

(ii) This record shall include:

(A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory worn, if any; and

(D) Name, Social Security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (14) of this section.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the physician's written opinion;

(C) Any employee medical complaints related to exposure to DBCP;

(D) A copy of the information provided the physician as required by subsection (14)(c) of this section; and

(E) A copy of the employee's medical and work history.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records and employee medical records required by this subsection shall be provided upon request to employees' designated representatives and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217.

(d) Transfer of records.

(i) If the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the director.

(iii) At the expiration of the retention period for the records required to be maintained under this section, the employer shall transmit these records by mail to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under subsection (6) of this section.

(b) Observation procedures.

(i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(C) Record the results obtained.

(19) Effective date. This standard will become effective July 28, 1978.

(20) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

NEW SECTION

WAC 296-62-07343 APPENDIX A—SUBSTANCE SAFETY DATA SHEET FOR DBCP. (1) Substance identification.

(a) Synonyms and trades names: DBCP; Dibromochloropropane; Fumazone (Dow Chemical Company TM); Nemafume; Nemagon (Shell Chemical Co. TM); Nemaset; BBC 12; and OS 1879.

(b) Permissible exposure:

(i) Airborne. 1 part DBCP vapor per billion parts of air (1 ppb); time-weighted average (TWA) for an eight-hour workday.

(ii) Dermal. Eye contact and skin contact with DBCP are prohibited.

(c) Appearance and odor: Technical grade DBCP is a dense yellow or amber liquid with a pungent odor. It may also appear in granular form, or blended in varying concentrations with other liquids.

(d) Uses: DBCP is used to control nematodes, very small worm-like plant parasites, on crops including cotton, soybeans, fruits, nuts, vegetables and ornamentals.

(2) Health hazard data.

(a) Routes of entry: Employees may be exposed:

(i) Through inhalation (breathing);

(ii) Through ingestion (swallowing);

(iii) Skin contact; and

(iv) Eye contact.

(b) Effects of exposure:

(i) Acute exposure. DBCP may cause drowsiness, irritation of the eyes, nose, throat and skin, nausea and vomiting. In addition, overexposure may cause damage to the lungs, liver or kidneys.

(ii) Chronic exposure. Prolonged or repeated exposure to DBCP has been shown to cause sterility in humans. It also has been shown to produce cancer and sterility in laboratory animals and has been determined to constitute an increased risk of cancer in man.

(iii) Reporting Signs and Symptoms. If you develop any of the above signs or symptoms that you think are caused by exposure to DBCP, you should inform your employer.

(3) Emergency first aid procedures.

(a) Eye exposure. If DBCP liquid or dust containing DBCP gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with DBCP.

(b) Skin exposure. If DBCP liquids or dusts containing DBCP get on your skin, immediately wash using soap or mild detergent and water. If DBCP liquids or dusts containing DBCP penetrate through your clothing, remove the clothing immediately and wash. If irritation is present after washing get medical attention.

(c) Breathing. If you or any person breathe in large amounts of DBCP, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Do not use mouth-to-mouth. Keep the affected person warm and at rest. Get medical attention as soon as possible.

(d) Swallowing. When DBCP has been swallowed and the person is conscious, give the person large amounts of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

(e) Rescue. Notify someone. Put into effect the established emergency rescue procedures. Know the locations of the emergency rescue equipment before the need arises.

(4) Respirators and protective clothing.

(a) Respirators. You may be required to wear a respirator in emergencies and while your employer is in the process of reducing DBCP exposures through engineering controls. If respirators are worn, they must have a National Institute for Occupational Safety and Health (NIOSH) approval label (Older respirators may have a Bureau of Mines Approval label). For effective protection, a respirator must fit your face and head snugly. The respirator should not be loosened or removed in work situations where its use is required. DBCP does not have a detectable odor except at 1,000 times or more above the permissible exposure limit. If you can smell DBCP while wearing a respirator, the respirator is not working correctly; go immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(b) Protective clothing. When working with DBCP you must wear for your protection impermeable work clothing provided by your employer. (Standard rubber and neoprene protective clothing do not offer adequate protection). DBCP must never be allowed to remain on the skin. Clothing and shoes must not be allowed to become contaminated with DBCP, and if they do, they must be promptly removed and not worn again until completely free of DBCP. Turn in impermeable clothing that has developed leaks for repair or replacement.

(c) Eye protection. You must wear splashproof safety goggles where there is any possibility of DBCP liquid or dust contacting your eyes.

(5) Precautions for safe use, handling, and storage.

(a) DBCP must be stored in tightly closed containers in a cool, well-ventilated area.

(b) If your work clothing may have become contaminated with DBCP, or liquids or dusts containing DBCP, you must change into uncontaminated clothing before leaving the work premises.

(c) You must promptly remove any protective clothing that becomes contaminated with DBCP. This clothing must not be re worn until the DBCP is removed from the clothing.

(d) If your skin becomes contaminated with DBCP, you must immediately and thoroughly wash or shower with soap or mild detergent and water to remove any DBCP from your skin.

(e) You must not keep food, beverages, cosmetics, or smoking materials, nor eat or smoke, in regulated areas.

(f) If you work in a regulated area, you must wash your hands thoroughly with soap or mild detergent and water, before eating, smoking or using toilet facilities.

(g) If you work in a regulated area, you must remove any protective equipment or clothing before leaving the regulated area.

(h) Ask your supervisor where DBCP is used in your work area and for any additional safety and health rules.

(6) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for DBCP. In addition, your employer must instruct you in the safe use of DBCP, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to DBCP. You or your representative have the right to observe employee exposure measurements and to record the result obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he is required to inform you of the actions which are being taken to reduce your exposure.

(c) Your employer is required to keep records of your exposure and medical examinations. Your employer is required to keep exposure and medical data for at least forty years or the duration of your employment plus twenty years, whichever is longer.

(d) Your employer is required to release exposure and medical records to you, your physician, or other individual designated by you upon your written request.

NEW SECTION

WAC 296-62-07344 APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES FOR DBCP. (1) Physical and chemical data.

(a) Substance identification.

(i) Synonyms: 1,2-dibromo-3-chloropropane; DBCP, Fumazone; Nema fume; Nemagon; Nemaset; BBC 12; OS 1879. DBCP is also included in agricultural pesticides and fumigants which include the phrase "Nema____" in their name.

(ii) Formula: C₃H₅Br₂Cl.

(iii) Molecular weight: 236.

(b) Physical data:

(i) Boiling point (760 mm HG): 195C (383F)

(ii) Specific gravity (water = 1): 2.093.

(iii) Vapor density (air = 1 at boiling point of DBCP): Data not available.

(iv) Melting point: 6C (43F).

(v) Vapor pressure at 20C (68F): 0.8 mm HG

(vi) Solubility in water: 1000 ppm.

(vii) Evaporation rate (Butyl Acetate = 1): very much less than 1.

(c) Appearance and odor: Dense yellow or amber liquid with a pungent odor at high concentrations. Any detectable odor of DBCP indicates overexposure.

(2) Fire explosion and reactivity hazard data.

(a) Fire.

(i) Flash point: 170F (77C)

(ii) Autoignition temperature: Data not available.

(iii) Flammable limits in air, percent by volume: Data not available.

(iv) Extinguishing media: Carbon dioxide, dry chemical.

(v) Special fire-fighting procedures: Do not use a solid stream of water since a stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.

(vi) Unusual fire and explosion hazards: None known.

(vii) For purposes of complying with the requirements of WAC 296-24-330, liquid DBCP is classified as a Class III A combustible liquid.

(viii) For the purpose of complying with WAC 296-24-95613, the classification of hazardous locations as described in article 500 of the National Electrical Code for DBCP shall be Class I, Group D.

(ix) For the purpose of compliance with WAC 296-24-592, DBCP is classified as a Class B fire hazard.

(x) For the purpose of compliance with WAC 296-24-230, locations classified as hazardous locations due to the presence of DBCP shall be Class I, Group D.

(xi) Sources of ignition are prohibited where DBCP presents a fire or explosion hazard.

(b) Reactivity.

(i) Conditions contributing to instability: None known.

(ii) Incompatibilities: Reacts with chemically active metals, such as aluminum, magnesium and tin alloys.

(iii) Hazardous decomposition products: Toxic gases and vapors (such as HBr, HC1 and carbon monoxide) may be released in a fire involving DBCP.

(iv) Special precautions: DBCP will attack some rubber materials and coatings.

(3) Spill, leak and disposal procedures.

(a) If DBCP is spilled or leaked, the following steps should be taken:

(i) The area should be evacuated at once and re-entered only after thorough ventilation.

(ii) Ventilate area of spill or leak.

(iii) If in liquid form, collect for reclamation or absorb in paper, vermiculite, dry sand, earth or similar material.

(iv) If in solid form, collect spilled material in the most convenient and safe manner for reclamation or for disposal.

(b) Persons not wearing protective equipment must be restricted from areas of spills or leaks until cleanup has been completed.

(c) Waste disposal methods:

(i) For small quantities of liquid DBCP, absorb on paper towels, remove to a safe place (such as a fume hood) and burn the paper. Large quantities can be reclaimed or collected and atomized in a suitable combustion chamber equipped with an appropriate effluent gas cleaning device. If liquid DBCP is absorbed in vermiculite, dry sand, earth or similar material and placed in sealed containers it may be disposed of in a state-approved sanitary landfill.

(ii) If in solid form, for small quantities, place on paper towels, remove to a safe place (such as a fume hood) and burn. Large quantities may be reclaimed. However, if this is not practical, dissolve in a flammable solvent (such as alcohol) and atomize in a suitable combustion chamber equipped with an appropriate effluent gas cleaning device. DBCP in solid form may also be disposed in a state-approved sanitary landfill.

(4) Monitoring and measurement procedures.

(a) Exposure above the permissible exposure limit.

(i) Eight Hour Exposure Evaluation: measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single eight-hour sample or two four-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

(ii) Monitoring techniques: The sampling and analysis under this section may be performed by collecting the DBCP vapor on petroleum based charcoal absorption tubes with subsequent chemical analyses. The method of measurement chosen should determine the concentration of airborne DBCP at the permissible exposure limit to an accuracy of plus or minus twenty-five percent. If charcoal tubes are used, a total volume of ten liters should be collected at a flow rate of 50 cc per minute for each tube. Analyze the resultant samples as you would samples of halogenated solvent.

(b) Since many of the duties relating to employee protection are dependent on the results of monitoring and measuring procedures, employers should assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

(5) Protective clothing. Employees should be required to wear appropriate protective clothing to prevent any possibility of skin contact with DBCP. Because DBCP is absorbed through the skin, it is important to prevent skin contact with both liquid and solid forms of DBCP. Protective clothing should include impermeable coveralls or similar fullbody work clothing, gloves, headcoverings, and workshoes or shoe coverings. Standard rubber and neoprene gloves do not offer adequate protection and should not be relied upon to keep DBCP off the skin. DBCP should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with the material; and if they do, they should be promptly removed and not worn again until completely free of the material. Any protective clothing which has developed leaks or is otherwise found to be defective should be repaired or replaced. Employees should also be required to wear

splashproof safety goggles where there is any possibility of DBCP contacting the eyes.

(6) Housekeeping and hygiene facilities.

(a) The workplace must be kept clean, orderly and in a sanitary condition.

(b) Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where DBCP dust or liquids are found. To minimize the contamination of air with dust, vacuuming with either portable or permanent systems must be used. If a portable unit is selected, the exhaust must be attached to the general workplace exhaust ventilation system, or collected within the vacuum unit equipped with high efficiency filters or other appropriate means of contamination removal and not used for other purposes. Units used to collect DBCP must be labeled.

(c) Adequate washing facilities with hot and cold water must be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of DBCP from the skin.

(d) Change or dressing rooms with individual clothes storage facilities must be provided to prevent the contamination of street clothes with DBCP. Because of the hazardous nature of DBCP, contaminated protective clothing must be stored in closed containers for cleaning or disposal.

(7) Miscellaneous precautions.

(a) Store DBCP in tightly closed containers in a cool, well ventilated area.

(b) Use of supplied-air suits or other impervious clothing (such as acid suits) may be necessary to prevent skin contact with DBCP. Supplied-air suits should be selected, used, and maintained under the supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

(c) The use of air-conditioned suits may be necessary in warmer climates.

(d) Advise employees of all areas and operations where exposure to DBCP could occur.

(8) Common operations. Common operations in which exposure to DBCP is likely to occur are: during its production; and during its formulation into pesticides and fumigants.

NEW SECTION

WAC 296-62-07346 APPENDIX C—MEDICAL SURVEILANCE GUIDELINES FOR DBCP. (1) Route of entry.

(a) Inhalation;

(b) Skin absorption.

(2) Toxicology. Recent data collected on workers involved in the manufacture and formulation of DBCP has shown that DBCP can cause sterility at very low levels of exposure. This finding is supported by studies showing that DBCP causes sterility in animals. Chronic exposure to DBCP resulted in pronounced necrotic action on the parenchymatous organs (i.e., liver, kidney, spleen) and on the testicles of rats at concentrations as low as 5 ppm. Rats that were chronically exposed to DBCP also showed changes in the composition of the blood, showing low RBC, hemoglobin, and WBC, and high reticulocyte levels as well as functional hepatic disturbance, manifesting itself in a long prothrombin time. Reznik et al., noted a single dose of 100 mg produced profound depression of the nervous system of rats. Their condition gradually improved. Acute exposure also resulted in the destruction of the sex gland activity of male rats as well as causing changes in the estrous cycle in female rats. Animal studies have also associated DBCP with an increased incidence of carcinoma. Olson, et al., orally administered DBCP to rats and mice five times per week at experimentally predetermined maximally tolerated doses and at half those doses. As early as ten weeks after initiation of treatment, DBCP induced a high incidence of squamous cell carcinomas of the stomach with metastases in both species. DBCP also induced mammary adenocarcinomas in the female rats at both dose levels.

(3) Signs and symptoms.

(a) Inhalation: Nausea, eye irritation, conjunctivitis, respiratory irritation, pulmonary congestion or edema, CNS depression with apathy, sluggishness, and ataxia.

(b) Dermal: Erythema or inflammation and dermatitis on repeated exposure.

(4) Special tests.

(a) Semen analysis: The following information excerpted from the document "Evaluation of Testicular Function", submitted by the Corporate Medical Department of the Shell Oil Company (exhibit 39-3),

may be useful to physicians conducting the medical surveillance program. In performing semen analyses certain minimal but specific criteria should be met:

(i) It is recommended that a minimum of three valid semen analyses be obtained in order to make a determination of an individual's average sperm count.

(ii) A period of sexual abstinence is necessary prior to the collection of each masturbatory sample. It is recommended that intercourse or masturbation be performed 48 hours before the actual specimen collection. A period of 48 hours of abstinence would follow; then the masturbatory sample would be collected.

(iii) Each semen specimen should be collected in a clean, wide-mouthed, glass jar (not necessarily pre-sterilized) in a manner designated by the examining physician. Any part of the seminal fluid exam should be initiated only after liquification is complete, i.e., 30 to 45 minutes after collection.

(iv) Semen volume should be measured to the nearest 1/10 of a cubic centimeter.

(v) Sperm density should be determined using routine techniques involving the use of a white cell pipette and a hemacytometer chamber. The immobilizing fluid most effective and most easily obtained for this process is distilled water.

(vi) Thin, dry smears of the semen should be made for a morphologic classification of the sperm forms and should be stained with either hematoxalin or the more difficult, yet more precise, Papanicolaou technique. Also of importance to record is obvious sperm agglutination, pyospermia, delayed liquification (greater than 30 minutes), and hyperviscosity. In addition, pH, using nitrazine paper, should be determined.

(vii) A total morphology evaluation should include percentages of the following:

- (A) Normal (oval) forms,
- (B) Tapered forms,
- (C) Amorphous forms (include large and small sperm shapes),
- (D) Duplicated (either heads or tails) forms, and
- (E) Immature forms.

(viii) Each sample should be evaluated for sperm viability (percent viable sperm moving at the time of examination) as well as sperm motility (subjective characterization of "purposeful forward sperm progression" of the majority of those viable sperm analyzed) within two hours after collection, ideally by the same or equally qualified examiner.

(b) Serum determinations: The following serum determinations should be performed by radiommuno-assay techniques using National Institutes of Health (NIH) specific antigen or antigen preparations of equivalent sensitivity:

- (i) Serum follicle stimulating hormone (FSH),
- (ii) Serum luteinizing hormone (LH), and
- (iii) Serum total estrogen (females only).

(5) Treatment. Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Contaminated clothing and shoes should be removed immediately. Flush eyes and wash contaminated skin. If swallowed and the person is conscious, induce vomiting. Recovery from mild exposures is usually rapid and complete.

(6) Surveillance and preventive considerations.

(a) Other considerations. DBCP can cause both acute and chronic effects. It is important that the physician become familiar with the operating conditions in which exposure to DBCP occurs. Those with respiratory disorders may not tolerate the wearing of negative pressure respirators.

(b) Surveillance and screening. Medical histories and laboratory examinations are required for each employee subject to exposure to DBCP. The employer should screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure:

(i) Liver disease. The primary site of biotransformation and detoxification of DBCP is the liver. Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of DBCP. These precautions should be considered before exposing persons with impaired liver function to DBCP.

(ii) Renal disease. Because DBCP has been associated with injury to the kidney it is important that special consideration be given to those with possible impairment of renal function.

(iii) Skin disease. DBCP can penetrate the skin and can cause erythema on prolonged exposure. Persons with pre-existing skin disorders may be more susceptible to the effects of DBCP.

(iv) Blood dyscrasias. DBCP has been shown to decrease the content of erythrocytes, hemoglobin, and leukocytes in the blood, as well as increase the prothrombin time. Persons with existing blood disorders may be more susceptible to the effects of DBCP.

(v) Reproductive disorders. Animal studies have associated DBCP with various effects on the reproductive organs. Among these effects are atrophy of the testicles and changes in the estrous cycle. Persons with pre-existing reproductive disorders may be at increased risk to these effects of DBCP.

(7) References.

(a) Reznik, Ya. B. and Sprinchan, G. K.: Experimental Data on the Gonadotoxic effect of Nemagon, *Gig. Sanit.*, (6), 1975, pp. 101-102, (translated from Russian).

(b) Faydysh, E. V., Rakhmatullaev, N. N. and Varshavskii, V. A.: The Cytotoxic Action of Nemagon in a Subacute Experiment, *Med. Zh. Uzbekistana*, (No. 1), 1970, pp. 64-65, (translated from Russian).

(c) Rakhmatullaev, N. N.: Hygienic Characteristics of the Nematicide Nemagon in Relation to Water Pollution Control, *Hyg. Sanit.*, 36(3), 1971, pp. 344-348, (translated from Russian).

(d) Olson, W. A. et al.: Induction of Stomach Cancer in Rats and Mice by Halogenated Aliphatic Fumigants, *Journal of the National Cancer Institute*, (51), 1973, pp. 1993-1995.

(e) Torkelson, T. R. et al.: Toxicologic Investigations of 1,2-Dibromo-3-chloropropane, *Toxicology and Applied Pharmacology*, 3, 1961 pp. 545-559.

AMENDATORY SECTION (Amending Order 86-02, filed 1/17/86)

WAC 296-24-21707 TIRE SERVICING EQUIPMENT. (1) The employer shall furnish a restraining device for inflating tires on multi-piece wheels.

(2) The employer shall provide a restraining device or barrier for inflating tires on single-piece wheels unless the rim wheel will be bolted onto a vehicle during inflation.

(3) Restraining devices and barriers shall comply with the following requirements:

(a) Each restraining device or barrier shall have the capacity to withstand the maximum force that would be transferred to it during a rim wheel separation occurring at one hundred fifty percent of the maximum tire specification pressure for the type of rim wheel being serviced.

(b) Restraining devices and barriers shall be capable of preventing the rim wheel components from being thrown outside or beyond the device or barrier for any rim wheel positioned within or behind the device;

(c) Restraining devices and barriers shall be visually inspected prior to each day's use and after any separation of the rim wheel components or sudden release of contained air. Any restraining device or barrier exhibiting damage such as the following defects shall be immediately removed from service:

(i) Cracks at welds;

(ii) Cracked or broken components;

(iii) Bent or sprung components caused by mishandling, abuse, tire explosion or rim wheel separation;

(iv) Pitting of components due to corrosion; or

(v) Other structural damage which would decrease its effectiveness.

(d) Restraining devices or barriers removed from service shall not be returned to service until they are repaired and re-inspected. Restraining devices or barriers requiring structural repair such as component replacement or rewelding shall not be returned to service until they are certified by either the manufacturer or a registered professional engineer as meeting the strength requirements of ((subsection (3))) (a) of this ((section)) subsection.

(4) The employer shall furnish and assure that an air line assembly consisting of the following components be used for inflating tires:

((i)) (a) A clip-on chuck;

((ii)) (b) An in-line valve with a pressure gauge or a presettable regulator; and

((iii)) (c) A sufficient length of hose between the clip-on chuck and the in-line valve (if one is used) to allow the employee to stand outside the trajectory.

(5) Current charts (rim manuals) containing instructions for the types of wheels being serviced shall be available in the service area.

(6) The employer shall furnish and assure that only tools recommended in the rim manual for the type of wheel being serviced are used to service rim wheels.

AMENDATORY SECTION (Amending Order 79-9, filed 7/31/79)

WAC 296-24-78009 CARE AND USE OF LADDERS. (1) Care. To insure safety and serviceability the following precautions on the care of ladders shall be observed:

(a) Ladders shall be maintained in good condition at all times, the joint between the steps and side rails shall be tight, all hardware and fittings securely attached, and the moveable parts shall operate freely without binding or undue play.

(b) Metal bearings of locks, wheels, pulleys, etc., shall be frequently lubricated.

(c) Frayed or badly worn rope shall be replaced.

(d) Safety feet and other auxiliary equipment shall be kept in good condition to insure proper performance.

(e) Ladders should be stored in such a manner as to provide ease of access or inspection, and to prevent danger of accident when withdrawing a ladder for use.

(f) Wood ladders, when not in use, should be stored at a location where they will not be exposed to the elements, but where there is good ventilation. They shall not be stored near radiators, stoves, steam pipes, or other places subjected to excessive heat or dampness.

(g) Ladders stored in a horizontal position should be supported at a sufficient number of points to avoid sagging and permanent set.

(h) Ladders carried on vehicles should be adequately supported to avoid sagging and securely fastened in position to minimize chafing and the effects of road shocks.

(i) Ladders should be kept coated with a suitable protective material. The painting of ladders is satisfactory providing the ladders are carefully inspected prior to painting by competent and experienced inspectors acting for, and responsible to, the purchaser, and providing the ladders are not for resale.

(j) Ladders shall be inspected frequently and those which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as "dangerous, do not use."

(k) Rungs should be kept free of grease and oil.

(2) Use. The following safety precautions shall be observed in connection with the use of ladders:

(a) Portable rung and cleat ladders shall, where possible, be used at such a pitch that the horizontal distance from the top support to the foot of the ladder is one-quarter of the working length of the ladder (the length along the ladder between the foot and the top support). The ladder shall be so placed as to prevent slipping, or it shall be lashed, or held in position. Ladders shall not be used in a horizontal position as platforms, runways, or scaffolds.

(b) Ladders for which dimensions are specified should not be used by more than one man at a time nor with ladder jacks and scaffold planks where use by more than one man is anticipated. In such cases, specially designed ladders with larger dimensions of the parts should be procured.

(c) Portable ladders shall be so placed that the side rails have a secure footing. The top rest for portable rung and cleat ladders shall be reasonably rigid and shall have ample strength to support the applied load.

(d) Ladders shall not be placed in front of doors opening toward the ladder unless the door is blocked open, locked, or guarded.

(e) Ladders shall not be placed on boxes, barrels, or other unstable bases to obtain additional height.

(f) To support the top of the ladder at a window opening, a board should be attached across the back of the ladder, extending across the window and providing firm support against the building walls or window frames.

(g) When ascending or descending, the user should face the ladder.

(h) Ladders with broken or missing steps, rungs, or cleats, broken side rails, or other faulty equipment shall not be used; improvised repairs shall not be made.

(i) Short ladders shall not be spliced together to provide long sections.

(j) Ladders made by fastening cleats across a single rail shall not be used.

(k) Ladders shall not be used as guys, braces, or skids, or for other than their intended purposes.

(l) Tops of the ordinary types of stepladders shall not be used as steps.

(m) On two-section extension ladders the minimum overlap for the two sections in use shall be as follows:

Size of ladder (feet):	Overlap (feet)	Lengths of extended ladder in feet	Distance of supports from ends, in inches	Total deflection, in inches
Up to and including 36	3	30	3	23 1/2
Over 36 up to and including 48	4	34	6	26
Over 48 up to and including 60	5	36	6	29

(n) Portable rung ladders with reinforced rails (see WAC 296-24-78007 (3)(b)(iii) and (iv)) shall be used only with the metal reinforcement on the under side. Ladders of this type should be used with great care near electrical conductors, since the reinforcing itself is a good conductor.

(o) No ladder should be used to gain access to a roof unless the top of the ladder shall extend at least ((3)) three feet above the point of support, at eave, gutter, or roof line.

(p) Adjustment of extension ladders should only be made by the user when standing at the base of the ladder, so that the user may observe when the locks are properly engaged. Adjustment of extension ladders from the top of the ladder (or any level over the locking device) is a dangerous practice and should not be attempted. Adjustment should not be made while the user is standing on the ladder.

(q) Middle and top sections of sectional or window cleaner's ladders should not be used for bottom section unless the user equips them with safety shoes.

(r) Extension ladders should always be erected so that the upper section is resting on the bottom section.

(s) The user should equip all portable rung ladders with nonslip bases when there is a hazard of slipping. Nonslip bases are not intended as a substitute for care in safety placing, lashing, or holding a ladder that is being used upon oily metal, concrete, or slippery surfaces.

(t) The bracing on the back legs of step ladders is designed solely for increasing stability and not for climbing.

(u) When service conditions warrant, hooks may be attached at or near the top of portable ladders to give added security.

(v) Stepladders shall not be used as single ladders.

(w) Separate ladders for ascending and descending shall be provided in building construction of more than ((2)) two stories in height, or where traffic is heavy.

(x) Where one broad ladder is used, a center rail shall be provided, and each side plainly marked "up" and "down."

(y) Ladder rungs shall not be used to support more than ((+)) one section of plank, and not more than ((2)) two men shall work on such section of planking at one and the same time. When ((2)) two men are working on the same section of plank, their work should be so arranged that their weight is equally distributed between ((2)) two ladders as nearly as possible.

(z) When ladders are used of a length sufficient to possess a tendency to spring when weight is applied, they shall be provided with bracing to overcome same. This applies particularly to extension ladders.

((at+)) (aa) Before climbing ladders, workmen shall see that their shoes are free and clean of greasy or slippery substances.

((bt+)) (bb) When working from a stepladder over ((5)) five feet high a workman shall not stand on a step higher than the third step from the top of the stepladder.

((ct+)) (cc) Ladders shall not be placed or used in elevator shafts or hoistways except where used by workmen engaged in work within such shafts or hoistways, and then they shall be protected from objects falling from operations at higher elevations in or adjoining the shaft.

((dt+)) (dd) Workmen shall not ascend or descend ladders while carrying tools or materials which will interfere with the free use of both hands.

((et+)) (ee) Ladders shall pass the following test:

When tested as a simple beam with a support under each end and the center rung loaded with a ((200)) two hundred pound load, the ladder must support this load for ((+0)) ten minutes without permanent set and without showing any sign of failure. The maximum deflection shall not be greater than shown in the enclosed table.

Lengths of extended ladder in feet	Distance of supports from ends, in inches	Total deflection, in inches
12	3	2 3/4
16	3	6 3/4
20	3	11 1/2
24	3	16 1/2
28	3	21 1/2

30	3	23 1/2
34	6	26
36	6	29
40	6	37
44	9	41

((ft+)) (ff) When working from a ladder over ((25)) twenty-five feet from the ground or floor, the ladder shall be secured at both top and bottom.

((gt+)) (gg) No type of work shall be performed on a ladder over ((25)) twenty-five feet from the ground or floor that requires the use of both hands to perform the work, unless a safety belt is worn and the safety lanyard is secured to the ladder.

((ht+)) (hh) Work such as sandblasting or spray painting, that requires wearing eye protection, respirators, and handling of pressure equipment, shall be limited to not over ((30)) thirty feet from the ground or floor while working on a ladder.

TABLE D-5

CLASSIFICATION OF VARIOUS SPECIES OF WOOD ACCEPTABLE FOR USE IN LADDER

The species are listed alphabetically within each group. The position of any species within a group therefore bears no relation to its strength or acceptability.

Where ladders are desired for use under conditions favorable to decay, it is recommended that the heartwood of decay-resistant species be used, or that the wood be given a treatment with a wood preservative. The species having the most durable heartwood are marked with an asterisk (*), and these should be preferred where resistance to decay is required.

GROUP 1

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed ((2,150)) two thousand one hundred fifty pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions may be not more than ((+0)) ten percent smaller for each cross-section dimension, or the thickness may remain unchanged, in which case the width may not be more than ((+5)) fifteen percent smaller if used edgewise (as in a rail) or ((25)) twenty-five percent smaller if used flatwise (as in a tread).

White ash	Fraxinus americana, pennsylvanica, quadrangulata
Beech	Fagus grandifolia
Birch	Betula lenta, alleghaniensis, nigra (2)
Rock elm	Ulmus thomasii
Hickory*	Carya ovata, laciniosa, tomentosa, glabra
Locust*	Robinia pseudoacacia, Gleditsia triacanthos
Hard maple	Acer nigrum, saccharum
Red maple	Acer rubrum (3)
Red oak	Quercus velutina, marilandica, kelloggii, falcata var. pagodaefolia, laurifolia, ellipsoidalis, rubra, nuttallii, palustris, coccinea, shumardii, falcata, laevis, phellos

White oak	Quercus arizonica, douglasii, macrocarpa, lobata, prinus, muehlenbergii, emoryi, gambelii, oblongifolia, virginiana, garryana, lyrata, stellata, michauxii, bicolor, alba
Pecan	Carya illinoensis, cordiformis, myristicaeformis (4), aquatica (4)

Persimmon	Diospyros virginiana
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GROUP 2

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed ((2,000)) two thousand pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions may be not more than ((7 1/2)) seven and one-half percent smaller for each cross-section dimension, or the thickness may remain unchanged, in which case the width may be not more than ((+5)) eleven percent smaller if used edgewise (as in a rail) or ((20)) twenty percent smaller if used flatwise (as in a tread).

Douglas fir (coast region) — Pseudotsuga menziesii
 Western larch — Larix occidentalis
 Southern yellow pine — *Pinus taeda, palustris, echinata, elliotii, rigida, virginiana*

GROUP 3

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed ((+600)) one thousand six hundred pounds per square inch.

Red alder —	<i>Alnus rubra, rhombifolia</i> (2)
Oregon ash —	<i>Fraxinus latifolia</i>
Pumpkin ash —	<i>Fraxinus profunda</i>
Alaska cedar* —	<i>Chamaecyparis nootkatensis</i>
Port Orford cedar* —	<i>Chamaecyparis lawsoniana</i>
Cucumber —	<i>Magnolia acuminata</i>
Cypress* —	<i>Taxodium distichum</i>
Soft elm —	<i>Ulmus americana, rubra</i>
Douglas fir (Rocky Mountain type) —	<i>Pseudotsuga menziesii</i> var. <i>glauca</i>
Noble fir —	<i>Abies procera</i>
Gum —	<i>Liquidambar styraciflua</i>
West coast hemlock —	<i>Tsuga heterophylla</i>
Magnolia —	<i>Magnolia grandiflora</i>
Oregon maple —	<i>Acer macrophyllum</i>
Norway pine —	<i>Pinus resinosa</i>
Poplar —	<i>Liriodendron tulipifera</i>
Redwood* —	<i>Sequoia sempervirens</i>
Eastern spruce —	<i>Picea glauca, rubens</i>
Sitka spruce —	<i>Picea sitchensis</i>
Sycamore —	<i>Platanus occidentalis</i>
Tamarack —	<i>Larix laricina</i>
Tupelo —	<i>Nyssa aquatica, sylvatica</i>

GROUP 4

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed ((+375)) one thousand three hundred seventy-five pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions shall be at least ((5)) five percent greater for each cross-section dimension, or the thickness may remain unchanged, in which case the width shall be at least ((7 1/2)) seven and one-half percent greater if used edgewise (as in a rail) or ((+5)) fifteen percent greater if used flatwise (as in a tread).

Aspen —	<i>Populus tremuloides, grandidentata</i>
Basswood —	<i>Tilia americana, heterophylla</i> (2)
Buckeye —	<i>Aesculus octandra, glabra</i> (2)
Butternut —	<i>Juglans cinerea</i>
Incense cedar* —	<i>Libocedrus decurrens</i>
Western red cedar* —	<i>Thuja plicata</i>
Cottonwood —	<i>Populus balsamifera, deltoides, sargentii, heterophylla</i>
White fir —	<i>Abies concolor, grandis, amabilis, lasiocarpa, magnifica</i>
Hackberry —	<i>Celtis occidentalis, laevigata</i> (2)
Eastern hemlock —	<i>Tsuga canadensis</i>
Holly —	<i>Ilex opaca</i>
Soft maple —	<i>Acer saccharinum</i>
Lodgepole pine —	<i>Pinus contorta</i>
Idaho white pine —	<i>Pinus monticola</i>
Northern white pine —	<i>Pinus strobus</i>
Ponderosa pine —	<i>Pinus ponderosa, pinus jeffreyi</i> (Jeffrey pine)
Sugar pine —	<i>Pinus lambertiana</i>
Engelmann spruce —	<i>Picea engelmannii</i>

Note 1: The common and scientific names of species used conform to the American Lumber Standards nomenclature and in most cases to U.S. Department of Agriculture Handbook No. 41, "Check List of Native and Naturalized Trees of the United States (including Alaska)," by Elbert L. Little. These publications can be obtained from the Superintendent of Documents, Washington D.C. 20225.

Note 2: This species is commonly associated with others of the same genus under American Lumber Standards nomenclature, but no strength tests have been made on it at the Forest Products Laboratory.

Note 3: Included under soft maple in American Lumber Standards nomenclature.

Note 4: This species is not included under this common name in American Lumber Standards nomenclature, but strength data are available and it is accordingly included in this classification.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-07341 ACRYLONITRILE.

WAC 296-62-07345 1,2-DIBROMO-3-CHLOROPROPANE.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-24-605 FIXED FIRE SUPPRESSION EQUIPMENT—AUTOMATIC SPRINKLER SYSTEMS.

WSR 88-06-074
PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Minority and Women's Business Enterprises intends to adopt, amend, or repeal rules concerning:

New	WAC 326-20-091	Size standards—Purpose.
New	WAC 326-20-092	Small business concern requirement.
New	WAC 326-20-093	Definitions.
New	WAC 326-20-094	Application of size standard.
New	WAC 326-20-095	Determination of firm size.
New	WAC 326-20-096	Sturaa project size standard.
New	WAC 326-20-097	Change in firm size.
New	WAC 326-20-098	Applicability of federal regulations.
Amd	WAC 326-20-171	Denial of certification—Show cause review.
Amd	WAC 326-20-172	Decertification of firms.
Amd	WAC 326-20-180	Effect of certification.
Amd	WAC 326-20-185	Recertification;

that the agency will at 1:00 p.m., Tuesday, April 5, 1988, in the Office Building 2 Auditorium, Department of Social and Health Services, 12th and Franklin Street, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 12, 1988.

The authority under which these rules are proposed is chapter 39.19 RCW.

The specific statute these rules are intended to implement is RCW 39.19.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 29, 1988.

Dated: March 2, 1988

By: Ralph C. Ruff
 Director

STATEMENT OF PURPOSE

Title: WAC 326-20-091 Size standards—Purpose; 326-20-092 Small business concern requirement; 326-20-093 Definitions; 326-20-094 Application of size standard; 326-20-095 Determination of firm size; 326-20-096 Sturaa project size standard; 326-20-097 Change in firm size; 326-20-098 Applicability of federal regulations; 326-20-171 Denial of certification—Show cause review; 326-20-172 Decertification of firms; 326-20-180 Effect of certification; and 326-20-185 Recertification.

Description of Purpose: WAC 326-20-091 through 326-20-098 defines the term small business concern and

how it will be applied to the certification process; WAC 326-20-171 revises procedures for obtaining show cause review of a denial of certification; WAC 326-20-172 changes term from revocation to decertification, allows office to issue final denial letter in certain circumstances, and revises procedures for obtaining show cause review; WAC 326-20-180 changes term from revoked to decertified, clarifies effect of certification, changes certification from one to two years, and revises criteria for renewal of certification; and WAC 326-20-185 changes term from renewal to recertification.

Statutory Authority: RCW 39.19.030(7).

Specific Statute Rule is Intended to Implement: Chapter 39.19 RCW.

Summary of Rule: Same as above.

Reasons Supporting Proposed Action: WAC 326-20-091 through 326-20-098, in 1987 the legislature directed the office to develop a definition of small business concern for use in the certification process; and WAC 326-20-171, 326-20-172, 326-20-180 and 326-20-185, to make the terms more consistent with those used by other jurisdictions, to streamline the process of reviewing the office's decision to deny or to decertify, and to decrease paper work for certified firms and avoid a backlog of certification applications.

Agency Personnel Responsible for Drafting: Mary Tennyson, Senior Assistant Attorney General, Attorney General Office; **Implementation and Enforcement:** Ralph C. Ruff, Director, Office of Minority and Women's Business Enterprises.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: The Washington State Office of Minority and Women's Business Enterprises.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: These are rules designed to notify businesses of the standards applied to determine small business concerns and to streamline the certification process.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: None.

NEW SECTION

WAC 326-20-091 SIZE STANDARDS – PURPOSE. The purpose of WAC 326-20-091 through WAC 326-20-098 is to set forth the procedure by which the Office will apply maximum size standards which a firm must not exceed to be eligible for certification. The Office's determination of whether a firm qualifies as a small business concern shall be, whenever possible, consistent with the small business requirements defined under section 3 of the Small Business Act, 15 U.S.C. § 632, and its implementing regulations. (Authority: RCW 39.19.030 (7)(b)).

NEW SECTION

WAC 326-20-092 SMALL BUSINESS CONCERN REQUIREMENT. (1) In addition to meeting the ownership and control requirements of chapter 39.19 RCW and these regulations, in order to be entitled to certification under chapter 39.19 RCW, a firm must qualify as a small business concern.

(2) A firm which exceeds the small business size limits after certification by the office shall be subject to decertification.

NEW SECTION

WAC 326-20-093 DEFINITIONS. (1) **Affiliate:**

(a) Except as otherwise noted, size determinations shall include the applicant concern and all its domestic and foreign affiliates. Moreover, all affiliates, regardless of whether organized for profit, must be included.

(b) Except as otherwise provided in this section, concerns are affiliates of each other when either directly or indirectly:

(i) One concern controls or has power to control the other, or;

(ii) A third party or parties controls or has the power to control both, or;

(iii) Such an "identity of interest" between or among parties exists so that affiliation may be presumed.

(c) In determining whether affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, common facilities, and contractual relationships: Provided, however, That restraints imposed on a franchise by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his or her effort, commensurate with ownership, and bears the risk of loss or failure.

(2) **Annual Receipts.** In size determinations where the maximum size is set by reference to "annual receipts," size eligibility requires that the concern may not exceed the "annual receipts" in that standard.

(a) For the purpose of determining annual receipts of a concern, "receipts" is defined to include all revenue in whatever form received or accrued from whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. However, the term "receipts" excludes proceeds from sales of capital assets and investments, proceeds from transactions between a concern and its domestic and foreign affiliates, proceeds from payments of notes receivable and accounts receivable, and amounts collected as an agent for another, such as gross bookings on which a commission is earned (in which case only the commission earned would constitute revenue) or such as taxes collected for remittance to a taxing authority.

(b) **Period of measurement.** "Annual receipts" of a concern which has been in business of three or more completed fiscal years means the arithmetic annual average revenue of the concern over its last three completed fiscal years (total revenue compiled over the entire three year period would be divided by three).

(c) "Annual receipts" of a concern which has been in business for less than three fiscal years means the arithmetic annual average revenue over the time period the concern has been in business (total revenues compiled over the period the concern has been in business, divided by the number of weeks, including fractions of a week, the concern has been in business, multiplied by fifty-two).

(d) **Method of determining annual receipts.** Revenue may be taken from the regular books of account of the concern. If the Office so elects or the firm has not kept regular books of account or the Internal Revenue Service has found such records to be inadequate and has reconstructed income of the concern, then revenue as shown on the Federal Income Tax return of the concern may be used in determining annual receipts.

(3) **Business concerns or concern.** A business concern eligible for certification under this chapter is a business entity, including its affiliates, organized for profit, with a place of business located in the United States and which makes a significant contribution to the United States economy through payment of taxes and/or use of American products, materials and/or labor. Such business entity must be legitimately owned and controlled by an individual(s) who is (are) citizens of or lawfully admitted permanent resident aliens in the United States, or by another business entity (or entities) eligible for certification under chapter 39.19 RCW.

(4) **Number of Employees.** In size determinations where the standard is "number of employees" size eligibility requires that the concern may not exceed the number of employees in that standard.

(a) "Number of employees" means that average employment of the concern, including the employees of its domestic and foreign affiliates, based upon employment during each of the pay periods for the preceding completed twelve calendar months.

(b) In computing average employment, part-time and temporary employees are counted as full-time employees for each applicable pay period.

(c) If a concern has not been in business for twelve months, "number of employees" means the average employment of the concern, including its affiliates, during each of the pay periods during which it has been in business.

(5) Small Business Concern. Except as otherwise provided in WAC 326-20-096, for certain federal projects, a small business concern for purposes of eligibility for certification is a business concern which does not exceed the size limitations as set forth in the current table of Standard Industrial Classification (SIC) codes and corresponding industry size standards as adopted by the Small Business Administration Federal Regulations, 13 CFR § 121.2 (proposed § 121.600). The number of employees or amount of annual receipts listed as the size standard for each SIC code indicates the maximum allowed for a firm (including its affiliates) to qualify as a small business concern. SIC size standard tables may be obtained at the following locations:

1. Office of Minority and Women's Business Enterprises
406 South Water, MS: FK-11
Olympia, Washington 98504-4611
(206) 753-9693 or SCAN 234-9693
2. METRO – MWBE/Contract Compliance Programs
821 Second Avenue, 6th Floor,
MS: 63
Seattle, Washington 98104
(206) 684-1337
3. Seattle Human Rights Department
105 Fourteenth Avenue
Seattle, Washington 98122
(206) 625-4384
4. King County Minority/Women's Business Program
Room 400, King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 344-2617
5. Port of Seattle – Contract Compliance Department
P.O. Box 1209
Seattle, Washington 98111
(206) 728-3296
6. City of Spokane – Affirmative Action Department
Fourth Floor, Municipal Building
West 808 Spokane Falls Boulevard
Spokane, Washington 99201-3333
(509) 456-4368

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 326-20-094 APPLICATION OF SIZE STANDARD. (1) The Office will determine which SIC code an applicant firm falls under based on information submitted by the firm. The Office has prepared conversion charts showing the Department of General Administration's commodity code designations listed in the MWBE Directory and the corresponding SIC codes, and the codes developed by the Construction Specifications Institute with the corresponding SIC codes.

(2) If an applicant's business activities encompass two or more SIC codes, the particular size standard to be applied will be based on the primary industry classification of the applicant concern. In determining what is the primary industry in which an applicant, including its affiliates, is engaged, primary consideration shall be given to the distribution of receipts, employees and costs of doing business among differing industry areas in which a concern is operating for the most recently completed fiscal year of the concern. Other factors (e.g., patents, contract awards, assets) may be considered.

NEW SECTION

WAC 326-20-095 DETERMINATION OF FIRM SIZE. (1) At the time of application for certification, and again at each renewal, a

firm must demonstrate to the Office that it is a small business concern. The Office, in turn, will verify that each firm qualifies as a small business concern. In verifying the applicant's size, the Office will review the annual financial statements and other relevant material regarding the firm's annual receipts and number of employees.

(2) The size of the firm, including its affiliates, will be determined as of the time of application for certification, and at the time of each renewal of certification.

NEW SECTION

WAC 326-20-096 STURAA PROJECT SIZE STANDARD. For purposes of utilization on projects funded by the Federal Highway Administration or under The Surface Transportation and Urban Relocation Assistance Act of 1987, (P.L. 100-17, or STURAA) the maximum size standard set out in STURAA and 49 CFR Part 23 of \$14 million average annual gross receipts over the preceding three fiscal years, shall apply, even if the size standard would otherwise be set by reference to number of employees. The \$14 million figure is a ceiling and firms are still subject to applicable lower limits on business size as established by the Small Business Administration and these regulations.

NEW SECTION

WAC 326-20-097 CHANGE IN FIRM SIZE. (1) In the event a firm that is certified as a small business concern under this chapter exceeds the size limits, or if the firm wishes to expand the areas in which it plans to do business, it must notify the Office in writing within thirty (30) calendar days of the event or the effective date of the expansion.

(2) If a firm exceeds size limits while performing a contract, those portions of the contract performed after exceeding size limits may still be counted toward goal attainment by the state agency or educational institution, but for any subsequent contracts, renewals, extensions or renegotiations the state agency or institution cannot count the participation of the firm toward its goal attainment.

NEW SECTION

WAC 326-20-098 APPLICABILITY OF FEDERAL REGULATIONS. Whenever issues arise regarding whether a firm qualifies as a small business concern which cannot be resolved by reference to these regulations, federal regulations adopted by the Small Business Administration at 13 CFR § 121 shall provide guidance to resolve such issues.

AMENDATORY SECTION (Amending Order 86-2, filed 8/11/86)

WAC 326-20-171 DENIAL OF CERTIFICATION—SHOW CAUSE REVIEW. (1) If the office has reached the conclusion that an application for certification should be denied, the office shall notify the applicant in writing, by certified mail, of its denial of certification. Within ((30)) thirty days of receipt of this notification, the applicant must either:

(a) Submit a written request for ((a meeting with)) show cause review by the director or designee, ((to show cause why the decision to deny is incorrect; (b) present additional written or documentary information to the director, or (c)) containing the information specified in subsection (2) of this section; or)

(b) Submit a written request for a contested case hearing, pursuant to WAC 326-08-015.

(2) A request for show cause review must set forth in detail the reasons the applicant believes the office's decision to deny certification is in error and include any additional information and documentation the applicant has to offer.

(3) When an applicant requests a show cause review, ((by meeting or by providing additional written documentation within 30 days of receipt of the denial letter;)) the finality of the denial for appeal purposes is stayed until the show cause review is complete.

((4))) (4) Upon receipt of a timely request for ((the opportunity to submit additional information at a show cause meeting, the office may schedule such a meeting. Subsequent to the meeting,)) a show cause review the office ((shall)) will review any additional information provided ((at the meeting)) by the applicant, and may conduct further investigation, and/or schedule a meeting with the applicant.

(5) The office will notify the applicant by certified mail of its decision either to affirm the denial or to grant certification. This notification is considered final for purposes of WAC 326-08-015.

((4)) Upon timely receipt of additional written or documentary information by the applicant, the office shall review such additional information and may conduct further investigation. The office will then notify the applicant by certified mail of its decision either to affirm the denial or to grant certification. This denial letter is considered final for purposes of WAC 326-08-015.

(5) Supporting documentation which existed prior to the reconsideration period, but which is presented to OMWBE subsequent to the reconsideration period, will not be accepted by OMWBE. If the applicant desires such documentation to be considered for purposes of the application in question, then the applicant must request a contested case hearing pursuant to WAC 326-08-015.)

(6) If a change in business circumstances occurs after the reconsideration period, then the applicant must submit a new application pursuant to WAC 326-20-220, and is not entitled to appeal the denial of the application in question on the basis of the change in business circumstances.

(7) "Reconsideration period," for purposes of this section, shall mean the ((30)) thirty days after receipt of the denial letter, described in subsection (1) ((above, or the period between receipt of the denial letter and the show cause meeting, if requested pursuant to subsection (1) above,)) of this section plus any additional time authorized by the director in writing.

AMENDATORY SECTION (Amending Order 86-2, filed 8/11/86)

WAC 326-20-172 ((REVOCACTION)) DECERTIFICATION OF ((CERTIFICATION)) FIRMS. (1) When the office has determined that a certified MWBE no longer meets the certification criteria ((and/or the certified MWBE fails to return the renewal of certification application forms)) or the certified MWBE fails to supply additional information requested by the office in a timely manner, the office will notify the ((applicant)) firm in writing of its intent to ((revoke certification)) decertify the firm.

(2) When a certified MWBE notifies the office that it is no longer in business, has sold the business, or no longer wishes to remain certified, or when the certified MWBE fails or refuses to return the renewal of certification form, the office will notify the firm in writing of its decertification. This notification is final for purposes of appeal, WAC 326-08-015.

(3) Upon receipt of an "intent to ((revoke certification)) decertify" letter, the MWBE ((may request a)) must either:

- (a) Submit a written request for a show cause review by the director which meets the criteria set out in (c) of this subsection; or
- (b) Submit a written request for a contested case hearing pursuant to WAC 326-08-018.

(c) The request ((must be in writing and)) for show cause review must be received by the office within thirty calendar days of receipt of the notice of intent to ((revoke certification)) decertify the firm. The MWBE's request for a show cause review must set forth the reasons the MWBE believes the office's decision to ((revoke certification)) decertify is in error and must include any additional information and documentation the business has to offer.

((3))) (4) If the office has not received a request for a show cause review nor any additional written documentation within thirty days of receipt of the "intent to decertify" letter, the decision to decertify becomes final, with no further rights to contest or appeal the decision.

(5) Upon receipt of the request for a show cause review, the office ((shall)) will review the request and any additional information provided and may conduct further investigation and/or request that the MWBE attend a show cause meeting with the director. The office will thereafter notify the MWBE by certified mail of its decision to either affirm or reverse its intent to ((revoke certification)) decertify the firm. This ((revocation)) decertification decision is considered final for purposes of WAC 326-08-015.

((4))) (6) If a show cause review is requested and the ((revocation of certification)) decision to decertify is affirmed, any aggrieved party may request a contested case hearing pursuant to WAC 326-08-015. The request must be made in writing and must be made within thirty days of receipt of the office's decision affirming the ((revocation of certification)) decertification decision.

((5)) If the office has not received a request for a show cause review nor any additional written documentation within thirty days of receipt of the "intent to revoke" letter, the office will notify the MWBE by certified mail of its decision to affirm its previous intent to revoke certification. This revocation decision is considered final for purposes of WAC 326-08-015.

((A))) (7) If the decision to decertify is appealed, the business shall remain certified until:

(a) The time provided by WAC 326-08-015 for appeal of the decision to ((revoke)) decertify has expired without action by the MWBE((, of)); or

(b) The entry of a final ((revocation)) decertification order issued by the director pursuant to WAC 326-08-130.

((Revocation)) Decertification shall be effective immediately upon the occurrence of (a) or (b) ((above)) of this subsection, and will not be stayed pending review by any court.

AMENDATORY SECTION (Amending Order 84-5, filed 4/5/84)

WAC 326-20-180 EFFECT OF CERTIFICATION. Certification as a MWBE shall have the following effects:

(1) Certification as a MWBE ((for the state program)) shall entitle ((the MWBE to be counted by)) state agencies ((and)), educational institutions, and local government jurisdictions to utilize the MWBE toward meeting their MWBE goals under this chapter or local legislation. Certification as a MWBE for a federal program shall entitle ((the MWBE to be counted by)) state agencies ((and)), educational institutions, and local government jurisdictions to utilize the MWBE toward meeting the MWBE goals under those programs. Certification shall be effective as of the date the decision is made in writing.

(2) ((Certification)) A firm may be ((revoked)) decertified at any time the office determines that the MWBE does not meet the current criteria for eligibility for certification. The MWBE shall notify the office of any changes in its size, ownership, control, or operations which may affect its continued eligibility as a MWBE. The duty of a business to cooperate with OMWBE investigation and the consent of a business to on-site investigation by OMWBE created in WAC 326-20-140 and 326-20-150 shall continue after a business is certified by OMWBE.

(3) Certification is effective for ((one)) two years. The office ((may)) will require of all ((applicants)) certified firms and/or of selected ((applicants periodic)) certified firms annual notarized statements regarding changes in the information provided during the initial certification process. The office will generally renew the certification ((annually)) as long as the ((applicant)) firm continues to meet the eligibility criteria, and there have been no determinations that the firm has violated chapter 39.19 RCW or these rules. Debarment of a firm from contracting with one or more state or federal agencies or local government jurisdictions may be grounds for nonrenewal of certification.

(4) Certification as a MWBE does not constitute compliance with any other laws or regulations, including contractor registration or pre-qualification, and does not relieve any firm of its obligations under other laws or regulations. Certification as a MWBE does not constitute any determination by the office that the firm is responsible or capable of performing any work.

AMENDATORY SECTION (Amending Order 85-2, filed 3/8/85)

WAC 326-20-185 ((RENEWAL OF CERTIFICATION)) RE-CERTIFICATION. Each certified firm must submit a statement of present status prior to ((renewal)) expiration of its two-year certification. The statement form will be provided to the certified business ((60)) sixty days before expiration of its certification. Failure to return the completed form within ((30)) thirty days may lead to decertification.

WSR 88-06-075 PROPOSED RULES **HIGHER EDUCATION PERSONNEL BOARD**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd WAC 251-14-020 Employee organization filing requirements.

Amd WAC 251-14-052 Union shop representative election.

Amd	WAC 251-14-054	Union shop representative decertification election.
Amd	WAC 251-14-058	Union shop requirements.
Amd	WAC 251-10-170	Dismissal—Union shop—Notice—Recision.
Amd	WAC 251-01-445	Union shop.
New	WAC 251-01-258	Nonassociation fee.
New	WAC 251-01-367	Representation fee.
Rep	WAC 251-01-455	Union shop representation fee;

that the agency will at 9 a.m., Friday, April 15, 1988, in the Student Center Conference Room, Olympic College, 16 and Chester, Bremerton, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 14, 1988.

Dated: March 2, 1988

By: John A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on March 2, 1988, and is filed pursuant to RCW 34.04.025.

Description of Purpose: To implement provisions of *Chicago Teacher's Union vs. Hudson*.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Title: WAC 251-14-020 Employee organization filing requirements.

Summary of Rule: Guideline for determining employee organization filing requirements.

Title: WAC 251-14-052 Union shop representative election.

Summary of Rule: A guideline for a union shop representative election.

Title: WAC 251-14-054 Union shop representative decertification election.

Summary of Rule: A guideline for a union shop representative decertification election.

Title: WAC 251-14-058 Union shop requirements.

Summary of Rule: Guideline for determining a union shop requirement.

Title: WAC 251-10-170 Dismissal—Union shop—Notice—Recision.

Summary of Rule: A guideline for dismissal from a union shop or notice of recision if employee fails to comply with WAC 251-14-058.

Title: WAC 251-01-445 Union shop.

Summary of Rule: Defines a union shop, that has voted, pursuant to WAC 251-14-052, to require, as a condition of employment, payment of dues, a representation

fee or a nonassociation fee to the certified exclusive bargaining representative of the unit.

Title: WAC 251-01-258 Nonassociation fee.

Summary of Rule: Defines the definition of a fee which an employee who is granted nonassociation must pay to a union shop exclusive bargaining representative as an alternative to becoming a member of such employee organization and paying regular dues.

Title: WAC 251-01-367 Representation fee.

Summary of Rule: A fee which an employee may pay to the exclusive bargaining representative as an alternative to becoming a member of such employee organization and paying regular dues.

Reasons Supporting Proposed Action: These rules are drafted by the HEPB assistant attorney general to implement provision of *Chicago Teacher's Union vs. Hudson*.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Higher Education Personnel Board, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is the result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-14-020 EMPLOYEE ORGANIZATION FILING REQUIREMENTS. (1) Any employee organization authorized to represent employees before the board or in collective bargaining with an appointing authority must first file with the director a notice of intent to represent employees. Such notice must set forth the name of the employee organization; the name of an agent authorized to speak on its behalf; a mailing address and telephone number; a general description of the types of employment falling within the intended area of representation and the number of classified higher education employees who are presently members of the employee organization; and a copy of a constitution, bylaws, or any other documents defining powers and authorizing representation. The director or designee shall, after verification of the documents submitted, notify the employee organization, each institution and related board of the authorized recognition.

(2) An employee organization which is, or desires to be, an exclusive bargaining representative for a bargaining unit which has chosen to be a union shop must have a written procedure concerning representation fees which complies with applicable statutory and constitutional requirements. Such employee organization must provide to the director a written opinion of the employee organization's attorney that its representation fee procedure is in compliance with applicable statutory and constitutional requirements. For union shops existing on the effective date of this subsection, the attorney's opinion must be filed with the director on or before (DATE). In all other cases, the attorney's opinion required by this subsection must be filed as part of the petition for a union shop representative election.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-14-052 UNION SHOP REPRESENTATIVE ELECTION. (1) The director shall order a union shop representative election to be held upon petition from an employee organization which has been certified per WAC 251-14-040 as the exclusive representative of the employees of a bargaining unit.

(2) The director shall, upon receipt of a petition for a union shop representative election, inform all affected employees of the union shop provisions contained in the state higher education personnel law, RCW 28B.16.100.

(3) The director or designee, at a preelection conference, shall review with the employee organization and appointing authority or designee the standards and procedures for the conduct of the election and shall inform all affected employees of the conditions set forth therein.

(4) The election shall be held on state property during working hours unless otherwise agreed to by all parties during the preelection conference.

(5) All employees on the active payroll and employed within the bargaining unit on the date of election will be eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot.

(6) Absentee ballots may be requested prior to date of election but will be counted only if received by the director or designee no later than two regular working days following the closing date of election.

(7) Transportation to official places of voting shall be provided to the degree practicable as determined by preelection conference.

(8) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall any person in the area discuss the advantages or disadvantages of a union shop and mandatory ((membership-in)) payment to an employee organization.

(9) The director will certify the employee organization as the union shop representative if a majority of employees in the bargaining unit vote in favor of requiring ((membership-in)) payment to the employee organization to be a condition of employment.

(10) Another union shop representative election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous union shop representative election.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-14-054 UNION SHOP REPRESENTATIVE DECERTIFICATION ELECTION. (1) The director shall, upon petition of thirty percent of the employees in a bargaining unit, order an election to determine if a majority of employees in such bargaining unit wish to rescind ((membership-in)) mandatory payment to the employee organization as a condition of employment, providing twelve months have lapsed since the original election which established the union shop representative. Such election shall be conducted in accordance with WAC 251-14-052 (2), (3), (4), (5), (6), (7), and (8).

(2) Another union shop representative decertification election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous union shop decertification election.

(3) The director will issue a notice of a union shop representative decertification, which will nullify the requirement of ((membership-in)) mandatory payment to an employee organization as a condition of employment when a majority of the employees in the bargaining unit vote to rescind ((membership-in)) mandatory payment to an employee organization as a condition of employment.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 98, filed 7/22/82, effective 9/1/82)

WAC 251-14-058 UNION SHOP REQUIREMENTS. (1) When a majority of employees within a bargaining unit determine by

election to require as a condition of employment membership in the employee organization designated as the exclusive bargaining representative, all employees included in that bargaining unit are required to become members of such employee organization or pay a representation fee or a nonassociation fee within thirty calendar days of the beginning of their employment within the bargaining unit or within thirty calendar days of the date of the union shop representative election, whichever is later.

(2) Membership in the employee organization is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines, and includes full and complete membership rights.

(3) Employees who wish the right of nonassociation with an employee organization must base their reasons on bona fide religious tenets or teachings of a church or religious body of which they are members. Such requests must be presented to the personnel office on the campus of the concerned institution. The appointing authority or designee and the union shop representative must be in agreement that the requests are based on such bona fide reasons. If agreement cannot be reached within a reasonable time, either party may submit the issues in dispute to the director or designee. Should the request for nonassociation be denied by the appointing authority or designee, the employee may submit the issue to the director or designee. The decision of the director regarding nonassociation shall be final.

(4) Employees who are granted the nonassociation right must pay a union shop nonassociation fee to the employee organization. Such fee is equivalent to the regular dues of the organization minus any monthly premiums for union sponsored insurance programs.

(5) When an employee has qualified for nonassociation with an employee organization on religious grounds, the employee may designate which of the programs of the employee organization are in harmony with the employee's conscience and may then designate that the ((union shop representation)) nonassociation fee shall go to such programs.

(6) The employee who qualifies for the nonassociation clause shall not be a member of the employee organization, but is entitled to the same representation rights as a member of the employee organization.

(7) Employees who do not want to be members of an employee organization which is their union shop representative and who do not seek the right of nonassociation provided by subsection (3) of this rule shall pay a representation fee to such employee organization. Employees who choose to pay a representation fee in lieu of becoming a member are entitled to all of the representation rights upon which their representation fee is calculated.

((7)) (8) A condition of employment for an employee employed in a bargaining unit where an employee organization is the exclusive union shop representative((5)) is membership in that employee organization or the regular payment of a union shop representation fee or a nonassociation fee to such organization. Failure of an employee to become a member of the employee organization or make payment of the union shop representation or nonassociation fee within thirty calendar days following the beginning of employment within the bargaining unit or thirty calendar days after the date of the union shop representative election, whichever is later, constitutes cause for dismissal per the provisions of WAC 251-10-170.

((8)) (9) The union shop representative shall inform the appointing authority, in writing, of those employees who have not complied with WAC 251-14-058.

((9)) (10) The requirement to be a member of an employee organization or the payment of a union shop representation fee or a nonassociation fee as a condition of employment will be nullified when the employee organization which is the union shop representative is decertified per WAC 251-14-050 or 251-14-054.

((10)) (11) The appointing authority or designee shall notify affected employees of existing union shop provisions prior to their hire or transfer into a bargaining unit where there is a requirement to be a member of a designated employee organization ((and/or)) to pay representation fee or a nonassociation fee as a condition of employment.

((11)) (12) Payroll deductions for employee organization dues and/or ((union shop)) representation or nonassociation fees may be provided by the institution upon written authorization from the employee.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-10-170 DISMISSAL—UNION SHOP—NOTICE—RECISSION. Appointing authorities shall dismiss an employee who is employed within a bargaining unit that has a certified union shop representative when notified by the union shop representative of the employee's failure to comply with union shop requirements per WAC 251-14-058. The employee shall be furnished with a written notice of the dismissal at least fifteen calendar days prior to the effective date of the action. Prior to the effective date, the dismissal shall be rescinded upon the employee's presenting evidence to the appointing authority of compliance with WAC 251-14-058, or that the union shop representative has not complied with WAC 251-14-020(2) or WAC 251-14-058.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 147, filed 4/22/86)

WAC 251-01-445 UNION SHOP. A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization, or to pay a representation fee or nonassociation fee.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 251-01-258 NONASSOCIATION FEE. A fee which an employee who is granted nonassociation as provided in WAC 251-14-058(3) must pay to a union shop exclusive bargaining representative as an alternative to becoming a member of such employee organization and paying regular dues.

NEW SECTION

WAC 251-01-367 REPRESENTATION FEE. A fee which an employee included in a union shop bargaining unit may pay to the exclusive bargaining representative as an alternative to becoming a member of such employee organization and paying regular dues.

WSR 88-06-076

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning the amendment of rules, definitions and risk classification language contained in chapter 296-17 WAC applicable to workers' compensation insurance underwritten by the Washington state fund, Department of Labor and Industries, and specifically the amendment to a general reporting rule by adding a new subsection which governs assumed hourly reporting for the horse racing industry, modifications to two existing classifications, and the establishment of four new risk classification definitions, all applicable to the horse racing industry of Washington, including corresponding base rates and expected losses for the new classifications;

that the agency will at 10:00 a.m. to 12:00 noon, April 18, 1988, Monday, Department of Social and Health Services, Office Building No. 2 Auditorium, 12th and Franklin Streets, Olympia, Washington; and at 10:00 a.m. to 12:00 noon, April 19, 1988, Tuesday, Department of Social and Health Services, Second Floor Conference Room, 1002 North 16th Avenue, Yakima, WA; and at 10:00 a.m. to 12:00 noon, April 20, 1988, Wednesday, Spokane Falls Community College, Spartan Union Building, Lounge A, West 3410 Fort George Wright Drive, Spokane, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 31, 1988.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is RCW 51.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 18, 1988.

The agency reserves the right to modify the text of these proposed rules prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing.

Written and/or oral submissions may also contain data, news, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21 RCW.

Correspondence relating to this notice and proposed rules attached should be addressed to:

Alan D. Spadoni
Assistant Director for Employer Services
Department of Labor and Industries
905 Plum Street S.E.
Olympia, Washington 98504

Dated: March 2, 1988
By: Joseph A. Dear
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): The proposals for rule changes which follow amend portions of chapter 296-17 WAC. This title [chapter] pertains to the calculation, reporting, and collection of premiums for worker's compensation insurance coverage provided by the Department of Labor and Industries.

Statutory Authority: RCW 51.04.020 and 51.16.035.

Specific Statute that Rule is Intended to Implement: RCW 51.16.035.

Summary of the Rule(s): To make the following substantive change in Title 296 WAC: Establish new subsection (10) in WAC 296-17-350 governing assumed hourly reporting for the horse racing industry; modifications to two existing risk classifications dealing with the horse racing industry; establishment of four new risk classification definitions applicable to the horse racing industry; and establish premium and expected loss rates for the new risk classifications and modify premium and expected loss rates for one existing risk classification.

Reasons Supporting Changes: To extend uniform treatment and equity to all affected employers. The

changes being proposed are reflective of recognized workers' compensation insurance practices.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s): R. L. McCallister, Deputy Director for Industrial Insurance, 753-5173; Alan D. Spadoni, Assistant Director for Employer Services, 753-5371; and Francis A. Romero, Manager, Classification Development, 753-1434.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule(s): State of Washington, Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): None.

These rules are not proposed to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: This statement pertains to revisions to chapter 296-17 WAC proposed by the Department of Labor and Industries, to become effective permanently on July 1, 1988, and is prepared to conform with section 3(2) and section 4 of the Regulatory Fairness Act (chapter 6, Laws of 1982).

Existing Rules: Chapter 296-17 WAC presently defines approximately 271 risk classifications for purposes of reporting exposures and computing premiums for workers' compensation insurance as well as rules governing the application of these risk classifications to businesses or occupations, provisions for an experience rating plan, insurance base rates applicable to each risk classification, and rules governing the reporting of worker hours and the assessment of penalties for employers who fail to register or file late payroll reports.

Treatment of Small Business Under Existing Rules: Risk classification definitions are keyed to the nature of an employer's business operations within this state and in certain cases individual employments, and are independent of business size. Once the number of risk classifications statistically supportable has been determined and the risks defined, base rates are developed for each risk classification. All new employers conducting like businesses are assigned into a common classification pool representative of their business undertaking and are assigned the same base rate. As experience is developed by each employer, a modified rate as provided for in the experience rating plan is calculated. Those employers with a favorable past experience receive rate reductions while those employers with unfavorable past experience receive rate increases. Within the experience rating plan, small employers with a loss-free record during the experience rating period are allowed rate credits in excess of those initially computed by the rating plan based on risk size, by imposing a maximum modification for loss-free firms of various sizes in WAC 296-17-890.

Effect of Proposed Revisions: A new subsection (10) in WAC 296-17-310 is being proposed which establishes an assumed number of worker hours to be reported for each start made in a pari-mutuel horse race and a minimum premium for this industry. Also included in

this filing are proposed amendments to two risk classification definitions, establishment of four new risk classifications, and corresponding premium and expected loss rates for these classifications. These changes will result in an even distribution of premium payment to all parties and ensure reporting compliance within the horse racing industry.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-350 MINIMUM PREMIUMS—ASSUMED WORKER HOURS. A minimum premium is the lowest amount of premium to be paid by an employer and is also the basis for determining premium computation for workers for whom an assumed number of worker hours must be, and hereby, is established:

(1) **Minimum premium.** Except as otherwise provided in this chapter, every employer shall be liable for a premium not less than ten dollars for any calendar quarter regardless of number of worker hours reported.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Resident managers, caretakers, or similar employments** that are employed for irregular periods and whose compensation is for a stipulated sum in money or a substitute for money shall be reported for the purpose of premium calculation as provided in subsection (6) of this section.

(4) **Commission personnel.** Commission personnel are persons whose compensation is based upon a percentage of the amount charged for the commodity or service rendered. Commission personnel are to be reported for premium purposes at a minimum of assumed worker hours of not less than eight worker hours a day for part-time employment, or not less than 40 worker hours per week for full-time employment: PROVIDED, That the assumed eight worker hours daily for part-time employment will apply only if the employer's books and records are maintained so as to show separately such person's actual record of employment.

(5) **Salaried personnel.** Salaried personnel for the purposes of this chapter means persons whose compensation is not governed by the number of hours devoted to employment for their employer. Employers having salaried personnel in their employ shall for the purpose of premium calculation report assumed worker hours based upon one hundred sixty worker hours for each month in which the employee is on salary: PROVIDED, That if the employer maintains complete and accurate records, supported by original time cards or timebook entries, the employer may report and pay premium on the actual hours worked by salaried personnel: PROVIDED FURTHER, That the department may, at its discretion, authorize some other method in assuming workers hours for premium calculating purposes in the case of contract personnel employed by schools and/or school districts.

(6) **Piece workers.** Employees whose compensation is based upon the accomplishment of a number of individual tasks whether computed on the number of pounds, items, pieces, or otherwise, the employer shall for the purpose of premium calculation assume each two dollars of earnings of each employee as representing one worker hour: PROVIDED, That if the average rate of compensation for the applicable classification is at least \$3.00 but less than \$3.50 per worker hour the assumed amount shall be \$3.00 of earnings as representing one worker hour, and on a progressive basis, if the average compensation is at least \$3.50 but less than \$4.00 the assumed amount shall be \$3.50 of earnings as representing one worker hour, and so forth. The records of the department as compiled for the preceding fiscal year ending June 30, shall be the basis for determining the average rate of compensation for

each classification: PROVIDED FURTHER, That if the employer maintains books and records to show separately the hours employed for each worker in their employ engaged in piece work then such actual worker hours shall be reported for the purpose of premium calculation. Notwithstanding any other provisions of this section, workers employed in a work activity center pursuant to WAC 296-17-779 shall be reported on the basis of the piece worker rule.

(7) Noncontact sports teams. All employers having personnel in their employ as defined under WAC 296-17-745 shall for the purpose of premium calculations, report assumed worker hours based upon 40 worker hours for each week in which any duties are performed.

(8) All employers having personnel in their employ as defined under WAC 296-17-739 shall, for the purpose of premium calculations, report assumed worker hours based upon ten hours for each mount in each horse race; professional drivers shall report worker hours based upon ten hours for each heat or race of any racing event: PROVIDED, That any day such personnel do not ride or drive in a race, the premium calculation shall be made by assuming ten worker hours for any day in which duties are performed.

(9) Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: PROVIDED, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: PROVIDED FURTHER, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.

(10) Licensed trainers—parimutuel racing. All trainers which come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations shall pay a minimum premium of one hundred dollars annually to the department which shall be in addition to a per start rate established for the various parimutuel tracks state-wide. The minimum premium shall be paid in full prior to being authorized to start any horse at a Washington parimutuel track which includes those operated in connection with local fairs or celebrations where parimutuel betting is authorized and shall be calculated using twenty assumed worker hours and be reported in classification 6613. For the purpose of premium calculation report assumed worker hours based upon ten hours for each start.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-731 CLASSIFICATION 6609.

((Stables, stablemen and exercise boys
Riding academies or clubs

Jockeys, horseshoeing and horse training, N.O.C.) Parimutuel horse race tracks with an average daily attendance of six thousand or more. This classification is limited in scope to employees of trainers who come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations. This classification covers all on or off track employments of employers subject to this classification including off season or prerace training activities. This classification includes such employments as assistant trainers, grooms, stable hands, and exercise riders. For purposes of this rule, jockeys will be considered exercise riders when employed by a trainer outside of scheduled race meets. A meet, as used in this section, shall be for the duration of the racing season as set for each track by the Washington state horse racing commission.

NEW SECTION

WAC 296-17-73101 CLASSIFICATION 6610.

Parimutuel horse race tracks with an average daily attendance of more than three thousand but less than six thousand. This classification is limited in scope to employees of trainers who come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations. This classification covers all on or off track employments of employers subject to this classification including off season or prerace training activities. This classification includes such employments as assistant trainers, grooms, stable hands, and exercise riders. For purposes of this rule, jockeys will be considered exercise riders when employed by a trainer outside of scheduled race meets.

A meet, as used in this section, shall be for the duration of the racing season as set for each track by the Washington state horse racing commission.

NEW SECTION

WAC 296-17-73102 CLASSIFICATION 6611.

Parimutuel horse race tracks with an average daily attendance of three thousand or less. This classification is limited in scope to employees of trainers who come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations. This classification covers all on or off track employments of employers subject to this classification including off season or prerace training activities. This classification includes such employments as assistant trainers, grooms, stable hands, and exercise riders. For purposes of this rule, jockeys will be considered exercise riders when employed by a trainer outside of scheduled race meets. A meet, as used in this section, shall be for the duration of the racing season as set for each track by the Washington state horse racing commission.

NEW SECTION

WAC 296-17-73103 CLASSIFICATION 6612.

Parimutuel horse race tracks operated in connection with a local fair or celebration or at a bush track. This classification is limited in scope to employees of trainers who come under the jurisdiction of the Washington horse racing commission and who become licensed subject to the Washington horse racing commission's rules and regulations. This classification covers all on or off track employments of employers subject to this classification including off season or prerace training activities. This classification includes such employments as assistant trainers, grooms, stable hands, and exercise riders. For purposes of this rule, jockeys will be considered exercise riders when employed by a trainer outside of scheduled race meets. A meet, as used in this section, shall be for the duration of the racing season as set for each track by the Washington state horse racing commission.

NEW SECTION

WAC 296-17-73104 CLASSIFICATION 6613.

Parimutuel horse race activities, N.O.C. excluding jockeys. This classification is limited to activities where a licensed public trainer has no starts but engages workers and for the reporting of the annual minimum premium.

AMENDATORY SECTION (Amending Order 85-33, filed 11/27/85, effective 1/1/86)

WAC 296-17-773 CLASSIFICATION 7302.

Livestock farms

((Sheep or goat raising)) Riding academies

This classification includes all farm operations related and incidental to the enterprises described above and applies to all acreage devoted to the raising of these animals.

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-885 TABLE III.

Expected Loss Rates and D-Ratios
Expected Loss Rates in Dollars Per Worker Hour
for Indicated Fiscal Year

CLASS	1984	1985	1986	D-RATIO
0101	.5803	.4838	.5320	.390
0102	.4740	.3952	.4399	.432
0103	.6007	.5008	.5518	.397
0104	.5279	.4398	.4713	.302
0105	.5420	.4517	.4963	.387
0106	.8235	.6863	.7496	.367
0107	.4513	.3763	.4173	.419
0108	.5497	.4582	.5027	.383
0109	1.0331	.8607	.9325	.339
0201	.9062	.7551	.8217	.354

CLASS	1984	1985	1986	D-RATIO	CLASS	1984	1985	1986	D-RATIO
0202	1.1731	.9772	1.0523	.318	2905	.2705	.2257	.2544	.477
0206	.6926	.5770	.6237	.331	2906	.2492	.2078	.2333	.460
0301	.2715	.2265	.2564	.490	2907	.2783	.2320	.2585	.435
0302	.8296	.6915	.7604	.390	2908	.4495	.3749	.4164	.425
0306	.3974	.3314	.3660	.405	2909	.2748	.2292	.2580	.472
0307	.2914	.2429	.2674	.394	3101	.2966	.2473	.2718	.388
0401	1.5975	1.3318	1.4687	.400	3102	.2096	.1747	.1935	.414
0402	.6692	.5578	.6132	.389	3103	.2096	.1747	.1935	.414
0403	.6839	.5698	.6164	.334	3104	.2149	.1791	.1972	.392
0502	.5524	.4604	.5044	.378	3105	.3122	.2605	.2951	.493
0503	.4900	.4083	.4489	.389	3301	.3784	.3157	.3563	.480
0504	.5610	.4678	.5211	.434	3302	.3017	.2516	.2787	.415
0505	.7702	.6420	.7070	.395	3303	.1178	.0981	.1086	.412
0506	1.1163	.9308	1.0372	.435	3309	.1831	.1527	.1685	.405
0507	1.2804	1.0674	1.1771	.400	3401	.1710	.1425	.1576	.409
0508	.9951	.8293	.9048	.363	3402	.1441	.1203	.1342	.442
0509	.9853	.8208	.8836	.317	3403	.0604	.0503	.0560	.429
0510	.5965	.4974	.5509	.415	3404	.1851	.1544	.1725	.446
0511	.4964	.4138	.4538	.380	3405	.0965	.0805	.0896	.430
0512	.6435	.5366	.5977	.434	3406	.0844	.0704	.0785	.437
0513	.4576	.3815	.4197	.392	3407	.1438	.1200	.1318	.390
0601	.1919	.1600	.1780	.430	3408	.0504	.0421	.0463	.397
0602	.2119	.1766	.1946	.394	3409	.0718	.0599	.0667	.431
0603	.3072	.2560	.2802	.374	3501	.3035	.2531	.2816	.431
0604	.6993	.5828	.6376	.372	3503	.1428	.1192	.1351	.493
0606	.1089	.0908	.1010	.427	3505	.2506	.2575	.2380	.399
0607	.1194	.0997	.1103	.417	3506	.3118	.2600	.2859	.391
0608	.1417	.1181	.1314	.428	3508	.2131	.1777	.1984	.442
0701	.7020	.5850	.6356	.349	3601	.0451	.0463	.0426	.439
0803	.1724	.1437	.1575	.380	3602	.0337	.0281	.0317	.483
0804	.2614	.2179	.2397	.391	3603	.2915	.2431	.2729	.461
0901	1.0690	.8909	.9711	.360	3604	.4778	.3982	.4370	.383
0902	.3152	.3236	.3005	.355	3605	.1690	.1409	.1570	.435
1002	.4847	.4041	.4502	.435	3606	.2975	.2481	.2788	.464
1003	.2714	.2263	.2507	.415	3701	.1274	.1062	.1167	.389
1004	.2714	.2263	.2507	.415	3702	.2026	.1689	.1859	.395
1005	2.0768	1.7317	1.9259	.429	3706	.1006	.1034	.0957	.388
1007	.0681	.0568	.0642	.483	3707	.1827	.1525	.1719	.477
1101	.2084	.1737	.1934	.432	3708	.1142	.0952	.1060	.433
1102	.6498	.5415	.5921	.370	3801	.1056	.0881	.0974	.411
1103	.1722	.1436	.1608	.452	3802	.0624	.0520	.0592	.503
1104	.2363	.1972	.2209	.454	3803	.0828	.0852	.0784	.450
1106	.0620	.0517	.0588	.510	3805	.0828	.0852	.0784	.450
1108	.2002	.1669	.1861	.438	3806	.0828	.0852	.0784	.450
1109	.4480	.3735	.4118	.400	3808	.1043	.0870	.0981	.479
1301	.1139	.0950	.1055	.424	3809	.1043	.1072	.0988	.441
1303	.0855	.0713	.0796	.441	3901	.0804	.0672	.0747	.433
1304	.0063	.0053	.0059	.486	3902	.2239	.1868	.2087	.445
1305	.1360	.1135	.1269	.449	3903	.4345	.3622	.4019	.420
1401	.4934	.4114	.4551	.410	3904	.3126	.3211	.2969	.403
1404	.2649	.2208	.2437	.403	3905	.0539	.0449	.0507	.479
1405	.2496	.2082	.2318	.435	3906	.2154	.1796	.2001	.434
1501	.1648	.1374	.1516	.402	3909	.0981	.0819	.0932	.507
1507	.1151	.0959	.1059	.406	4002	.2659	.2218	.2473	.437
1701	.8909	.7422	.8026	.333	4101	.0629	.0525	.0590	.462
1702	.8909	.7422	.8026	.333	4103	.1427	.1191	.1337	.461
1703	.2483	.2070	.2292	.413	4104	.0651	.0669	.0617	.439
1704	.3623	.3021	.3314	.382	4107	.0348	.0289	.0324	.450
1801	.3972	.3311	.3662	.410	4108	.0629	.0525	.0590	.462
2002	.2977	.2482	.2772	.443	4109	.0629	.0525	.0590	.462
2003	.2184	.1823	.2040	.451	4201	.1955	.1630	.1801	.406
2004	.3612	.3011	.3342	.421	4301	.3830	.3195	.3616	.490
2005	.1404	.1171	.1313	.458	4302	.3259	.2718	.3038	.448
2007	.1541	.1284	.1413	.393	4303	.4078	.3401	.3799	.445
2008	.1276	.1064	.1176	.409	4304	.2550	.2127	.2377	.446
2101	.2453	.2046	.2288	.448	4305	.5704	.4755	.5242	.398
2102	.2184	.1823	.2040	.451	4401	.1801	.1502	.1682	.453
2104	.1237	.1032	.1166	.481	4402	.2801	.2335	.2582	.408
2105	.2500	.2084	.2297	.398	4404	.2184	.1823	.2040	.451
2201	.1122	.0936	.1049	.460	4501	.0658	.0548	.0597	.357
2202	.1913	.1596	.1777	.435	4502	.0154	.0128	.0141	.395
2203	.1166	.0972	.1094	.468	4503	.0311	.0319	.0294	.426
2401	.2386	.1989	.2218	.437	4504	.0268	.0223	.0249	.455
2903	.2705	.2257	.2544	.477	4601	.2208	.1840	.1991	.335
2904	.3397	.2832	.3162	.443	4802	.1507	.1257	.1405	.447

CLASS	1984	1985	1986	D-RATIO	CLASS	1984	1985	1986	D-RATIO
4803	.1659	.1384	.1548	.448	6405	.2267	.1889	.2087	.405
4804	.2488	.2075	.2338	.473	6406	.0282	.0235	.0265	.467
4805	.1670	.1393	.1567	.467	6407	.0573	.0478	.0540	.475
4806	.0370	.0309	.0349	.476	6408	.1369	.1141	.1252	.383
4807	.7395	.6164	.6775	.389	6409	.2140	.1784	.1950	.369
4808	.1743	.1453	.1627	.452	6501	.0199	.0165	.0188	.487
4809	.0921	.0769	.0863	.463	6502	.0078	.0065	.0072	.437
4810	.0610	.0509	.0569	.448	6503	.0531	.0443	.0471	.280
4811	.1431	.1193	.1319	.410	6504	.1006	.0840	.0959	.521
4812	.1420	.1184	.1324	.447	6505	.0744	.0620	.0697	.466
4901	.0241	.0201	.0221	.401	6506	.0232	.0193	.0215	.416
4902	.0241	.0201	.0225	.455	6507	.1502	.1545	.1424	.429
4903	.0241	.0201	.0221	.401	6508	.1608	.1341	.1509	.469
4904	.0063	.0053	.0059	.486	6509	.0822	.0686	.0774	.479
4905	.1182	.0987	.1114	.483	6601	.0845	.0705	.0788	.445
4906	.0212	.0176	.0197	.438	6602	.1856	.1548	.1743	.469
4907	.0429	.0357	.0397	.425	6603	.1072	.0894	.1004	.463
4908	.0442	.0368	.0409	.429	6604	.0326	.0272	.0303	.434
4909	.0442	.0368	.0409	.429	6605	.0878	.0732	.0823	.463
5001	1.7685	1.4740	1.6135	.374	6607	.0586	.0489	.0554	.487
5002	.2176	.1815	.2046	.475	6608	.1287	.1073	.1191	.419
5003	.7879	.6565	.7122	.344	6609	1.1543	.9630	1.0884	.485
5004	.6529	.5447	.6174	.495	6610	1.1543	.9630	1.0884	.485
5101	.3329	.2775	.3075	.416	6611	1.1543	.9630	1.0884	.485
5102	.6769	.5641	.6182	.378	6612	1.1543	.9630	1.0884	.485
5103	.4539	.3783	.4161	.390	6613	1.1543	.9630	1.0884	.485
5104	.2871	.2950	.2731	.388	6704	.0750	.0625	.0695	.425
5106	.3007	.2507	.2767	.403	6705	.2719	.2267	.2569	.493
5107	.1997	.2050	.1896	.405	6706	.1300	.1084	.1206	.429
5108	.3199	.2668	.2962	.423	6707	4.4696*	3.7304*	4.2872*	.542
5109	.2578	.2150	.2361	.387	6708	.10774	.8986	.10082	.459
5201	.1379	.1150	.1275	.419	6709	.0527	.0439	.0497	.485
5204	.7658	.6389	.7194	.472	6801	.2842	.2370	.2636	.429
5205	.3717	.3818	.3540	.368	6802	.1696	.1414	.1573	.430
5206	.1653	.1378	.1503	.363	6803	.13181	.10974	.11547	.241
5207	.0586	.0489	.0554	.487	6804	.1083	.0903	.0984	.361
5208	.4858	.4050	.4492	.419	6809	.8277	.6906	.7855	.507
5209	.2895	.2414	.2710	.461	6902	.3661	.3051	.3306	.339
5301	.0085	.0071	.0079	.388	6903	2.1082	1.7562	1.8900	.316
5305	.0118	.0098	.0109	.420	6904	.0849	.0707	.0781	.400
5306	.0130	.0108	.0120	.428	6905	.1266	.1056	.1159	.385
5307	.1428	.1191	.1322	.420	6907	.6353	.5297	.5878	.421
6103	.0138	.0116	.0130	.455	6908	.1327	.1107	.1225	.416
6104	.1262	.1052	.1174	.438	6909	.0270	.0226	.0252	.444
6105	.1006	.0839	.0945	.469	7101	.0152	.0126	.0140	.411
6106	.1066	.1095	.1011	.416	7102	6.3040*	5.2584*	5.9344*	.479
6107	.0537	.0448	.0492	.388	7103	.0877	.0731	.0809	.413
6108	.2139	.1785	.2024	.497	7104	.0228	.0190	.0211	.418
6109	.0150	.0125	.0139	.454	7105	.1496	.1248	.1399	.458
6201	.0647	.0539	.0599	.427	7106	.3030	.2526	.2820	.441
6202	.2763	.2303	.2558	.423	7107	.4663	.3889	.4333	.435
6203	.0471	.0393	.0435	.418	7108	1.1194	.9336	1.0455	.453
6204	.0633	.0528	.0594	.466	7109	2.7203	2.2683	2.5221	.428
6205	.0633	.0528	.0594	.466	7201	.1601	.1337	.1512	.489
6206	.0633	.0528	.0594	.466	7202	.0197	.0164	.0179	.369
6207	.3875	.3232	.3641	.473	7203	.0462	.0385	.0428	.421
6208	.1078	.0898	.0994	.411	7301	.2783	.2321	.2595	.446
6209	.0983	.0819	.0918	.456	7302	.2286	.1907	.2146	.471
6301	.0451	.0376	.0417	.413	7307	.2822	.2355	.2692	.524
6302	.0727	.0606	.0672	.417	7308	.1038	.0865	.0962	.429
6303	.0208	.0174	.0190	.374	7309	.0527	.0439	.0497	.485
6304	.0556	.0463	.0511	.400					
6305	.0220	.0184	.0204	.434					
6306	.1049	.0875	.0968	.412					
6307	.0381	.0390	.0361	.455					
6308	.0185	.0153	.0168	.372					
6309	.0383	.0320	.0361	.477					
6401	.0381	.0390	.0361	.455					
6402	.0963	.0803	.0899	.454					
6403	.0525	.0437	.0496	.494					
6404	.0363	.0303	.0340	.466					

*Daily expected loss rate

AMENDATORY SECTION (Amending Order 87-26, filed 12/1/87, effective 1/1/88)

WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID RATES BY CLASS OF INDUSTRY. Industrial insurance accident fund base rates and medical aid rates by class of industry shall be as set forth below.

Rates Effective January 1, 1988		Rates Effective January 1, 1988			
Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
0101	0.9093	0.4644	2003	0.3466	0.2702
0102	0.7490	0.5074	2004	0.5695	0.4361
0103	0.9427	0.6846	2005	0.2231	0.2250
0104	0.8123	0.3839	2007	0.2415	0.2310
0105	0.8486	0.8076	2008	0.2007	0.1545
0106	1.2841	0.8792	2101	0.3889	0.4256
0107	0.7114	0.3929	2102	0.3466	0.2702
0108	0.8600	0.5013	2104	0.1976	0.1930
0109	1.6017	0.9324	2105	0.3923	0.2455
0201	1.4093	0.8793	2201	0.1783	0.1435
0202	1.8110	1.5587	2202	0.3025	0.2907
0206	1.0721	0.6733	2203	0.1856	0.1782
0301	0.4342	0.3572	2401	0.3774	0.3303
0302	1.2999	0.6161	2903	0.4314	0.4122
0306	0.6247	0.4400	2904	0.5379	0.4367
0307	0.4569	0.4495	2905	0.4314	0.4122
0401	2.5082	1.4778	2906	0.3962	0.3008
0402	1.0483	0.9827	2907	0.4401	0.4205
0403	1.0592	0.7230	2908	0.7094	0.4791
0502	0.8633	0.5312	2909	0.4378	0.4183
0503	0.7675	0.7671	3101	0.4645	0.2845
0504	0.8870	0.6192	3102	0.3300	0.2285
0505	1.2079	0.7058	3103	0.3300	0.2285
0506	1.7654	1.3529	3104	0.3369	0.3727
0507	2.0103	1.3163	3105	0.4996	0.4441
0508	1.5505	1.3043	3301	0.6040	0.4112
0509	1.5209	0.8162	3302	0.4752	0.3445
0510	0.9395	0.6494	3303	0.1853	0.2097
0511	0.7764	0.4345	3309	0.2878	0.3378
0512	1.0175	0.6587	3401	0.2690	0.2367
0513	0.7172	0.4190	3402	0.2283	0.2720
0601	0.3032	0.2940	3403	0.0954	0.0875
0602	0.3324	0.2134	3404	0.2934	0.3018
0603	0.4796	0.3725	3405	0.1526	0.1498
0604	1.0917	0.8333	3406	0.1336	0.1620
0606	0.1720	0.1876	3407	0.2254	0.1803
0607	0.1882	0.1689	3408	0.0792	0.0740
0608	0.2237	0.2465	3409	0.1135	0.1938
0701	1.0907	0.5786	3501	0.4795	0.4461
0803	0.2696	0.2100	3503	0.2287	0.1924
0804	0.4096	0.2921	3506	0.4887	0.3374
0901	1.6647	0.6481	3508	0.3376	0.3028
1002	0.7664	0.6163	3602	0.0537	0.0658
1003	0.4275	0.2857	3603	0.4635	0.4092
1004	0.4275	0.2857	3604	0.7475	0.5585
1005	3.2801	1.6494	3605	0.2673	0.2392
1007	0.1088	0.1180	3606	0.4732	0.4000
1101	0.3293	0.3204	3701	0.1996	0.1877
1102	1.0140	0.5206	3702	0.3177	0.2172
1103	0.2733	0.2864	3707	0.2914	0.2234
1104	0.3753	0.3178	3708	0.1805	0.1733
1106	0.0995	0.1326	3801	0.1662	0.1518
1108	0.3168	0.3430	3802	0.1000	0.0949
1109	0.7033	0.5388	3808	0.1664	0.1419
1301	0.1798	0.1549	3901	0.1272	0.1146
1303	0.1354	0.1153	3902	0.3549	0.3015
1304	0.0101	0.0128	3903	0.6850	0.7125
1305	0.2157	0.2320	3905	0.0860	0.1281
1401	0.7764	0.9738	3906	0.3405	0.2243
1404	0.4160	0.2512	3909	0.1575	0.1585
1405	0.3947	0.2382	4002	0.4207	0.3189
1501	0.2589	0.1825	4101	0.1000	0.1122
1507	0.1809	0.1746	4103	0.2269	0.2329
1701	1.3795	0.5348	4107	0.0551	0.0614
1702	1.3795	0.5348	4108	0.1000	0.1122
1703	0.3909	0.2264	4109	0.1000	0.1122
1704	0.5669	0.3559	4201	0.3074	0.2155
1801	0.6248	0.5719	4301	0.6125	0.5421
2002	0.4715	0.3381	4302	0.5166	0.4488

Rates Effective
January 1, 1988Rates Effective
January 1, 1988

Class	Accident Fund Base Rate	Medical Aid Fund Rate	Class	Accident Fund Base Rate	Medical Aid Fund Rate
4304	0.4043	0.4078	6308	0.0288	0.0198
4305	0.8952	0.5884	6309	0.0612	0.0809
4401	0.2858	0.2607	6402	0.1529	0.1300
4402	0.4405	0.3243	6403	0.0840	0.1159
4404	0.3466	0.2702	6404	0.0578	0.0663
4501	0.1023	0.0777	6405	0.3563	0.3317
4502	0.0242	0.0227	6406	0.0449	0.0602
4504	0.0425	0.0628	6407	0.0915	0.1307
4601	0.3420	0.4517	6408	0.2142	0.2320
4802	0.2389	0.1661	6409	0.3339	0.2572
4803	0.2631	0.2007	6501	0.0317	0.0345
4804	0.3964	0.3012	6502	0.0123	0.0150
4805	0.2659	0.2263	6503	0.0814	0.0463
4806	0.0591	0.0519	6504	0.1620	0.2603
4808	0.2766	0.2719	6505	0.1183	0.1349
4809	0.1466	0.1650	6506	0.0365	0.0407
4810	0.0967	0.0795	6508	0.2561	0.2283
4811	0.2251	0.1886	6509	0.1312	0.1504
4812	0.2252	0.1559	6601	0.1340	0.1179
4901	0.0378	0.0334	6602	0.2956	0.2536
4902	0.0382	0.0355	6603	0.1705	0.1682
4903	0.0378	0.0334	6604	0.0516	0.0388
4904	0.0101	0.0128	6605	0.1397	0.1154
4905	0.1888	0.2007	6607	0.0938	0.1036
4906	0.0335	0.0359	6608	0.2029	0.1324
4907	0.0677	0.0584	(6609	1.8442	1.8325))
4908	0.0697	0.1381	6609	2.7402	2.7228
4909	0.0697	0.1381	6610	1.1853	1.1777
5001	2.7621	1.6466	6611	.7338	.7292
5002	0.3469	0.2895	6612	.3827	.3803
5003	1.2227	0.6197	6613	2.4884	2.4746
5004	1.0452	0.8116	6704	0.1184	0.1334
5101	0.5243	0.3380	6705	0.4350	0.5699
5102	1.0580	0.6467	6706	0.2053	0.2378
5103	0.7112	0.5788	6707	7.23*	10.45*
5106	0.4724	0.4337	6708	1.7123	2.3520
5108	0.5048	0.4819	6709	0.0841	0.1401
5109	0.4038	0.3466	6801	0.4489	0.2700
5201	0.2174	0.1977	6802	0.2679	0.2947
5204	1.2204	0.5559	6803	2.0026	0.6312
5206	0.2575	0.1824	6804	0.1686	0.1532
5207	0.0938	0.1036	6809	1.3283	2.5744
5208	0.7656	0.5861	6901	—	0.0661
5209	0.4602	0.3797	6902	0.5677	0.2322
5301	0.0134	0.0159	6903	3.2535	3.0083
5305	0.0186	0.0186	6904	0.1333	0.1094
5306	0.0204	0.0180	6905	0.1982	0.1650
5307	0.2252	0.1791	6906	—	0.1650
6103	0.0220	0.0349	6907	1.0018	0.6342
6104	0.1996	0.2080	6908	0.2090	0.1762
6105	0.1602	0.1293	6909	0.0428	0.0458
6107	0.0841	0.0885	7101	0.0239	0.0184
6108	0.3426	0.3091	7102	10.06*	24.77*
6109	0.0238	0.0213	7103	0.1380	0.1110
6201	0.1021	0.1095	7104	0.0358	0.0255
6202	0.4358	0.3376	7105	0.2377	0.1778
6203	0.0742	0.0660	7106	0.4797	0.3201
6204	0.1007	0.1183	7107	0.7376	0.7610
6205	0.1007	0.1183	7108	1.7767	1.1313
6206	0.1007	0.1183	7109	4.2958	3.3871
6207	0.6175	0.7049	7201	0.2561	0.2077
6208	0.1696	0.1762	7202	0.0307	0.0286
6209	0.1560	0.1850	7203	0.0729	0.0674
6301	0.0710	0.0576	7204	—	—
6302	0.1145	0.0935	7301	0.4411	0.3408
6303	0.0326	0.0362	7302	0.3642	0.4448
6304	0.0872	0.0742	7307	0.4545	0.5242
6305	0.0348	0.0362	7308	0.1638	0.1453
6306	0.1652	0.1871	7309	0.0841	0.1401

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-598 CLASSIFICATION 3606.

**WSR 88-06-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 2, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

Amd ch. 388-82 WAC Medical care—Programs described—Limitations.

Amd WAC 388-99-010 Medically needy assistance;

that the agency will at 10:00 a.m., Tuesday, April 5, 1988, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1988.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: February 29, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-82-010, 388-82-115 and 388-99-010.

Purpose: To implement the medical assistance portion of the Family Independence Program (FIP). To correct

problems relating to individuals eligible for the medically needy program.

Reason: The department plans to implement the Family Independence Program on June 1, 1988.

Statutory Authority: RCW 74.08.090.

Summary: Family units eligible to receive FIP are eligible for medical assistance as categorically needy. Family units that are terminated from FIP because of increased income or increased support payments shall continue to be eligible for medical assistance as categorically needy for twelve months. Individuals listed in WAC 388-82-010, including family units eligible for FIP, are potentially eligible as medically needy. In determining eligibility as medically needy for the ineligible spouse of an SSI beneficiary the total income of the SSI beneficiary shall be disregarded.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules are necessary as a result of a new state or federal law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2378, filed 5/14/86)

WAC 388-82-010 PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE. Medical assistance is available to any individual who is categorically needy.

(1) Individuals receiving or eligible to receive a cash assistance payment. Categories under which individuals may qualify include:

- (a) Aid to families with dependent children (AFDC);
- (b) Supplemental Security Income (SSI);
- (c) State supplemental payment. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for medicaid; and
- (d) Individuals under age twenty-one whose income is less than the one person AFDC standard and who are in:
 - (i) Foster care; or
 - (ii) Subsidized adoption; or
 - (iii) Skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or
 - (iv) Approved inpatient psychiatric facilities.

(e) A pregnant woman who would be eligible for AFDC if her child were born and living with her. In determining income eligibility for medicaid, the department shall increase the number in the household ((is increased)) by one before ((being compared)) comparing the pregnant woman's income to the AFDC payment standard.

(f) Family independence program.

(2) Individuals in medical facilities:

(a) Who would be eligible for cash assistance if they were not institutionalized. This includes all categorically needy groups;

(b) Who are SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(3) Individuals who would not receive cash assistance because of special provisions as defined in WAC 388-83-028.

AMENDATORY SECTION (Amending Order 2453, filed 12/22/86)

WAC 388-82-115 THE DEPARTMENT SHALL CLASSIFY AS ELIGIBLE FOR CATEGORICALLY NEEDY MEDICAL ASSISTANCE. (1) Persons who, in August 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who are ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in Social Security benefits under Public Law 92-336.

(2) Persons who were entitled to RSDI benefits in August 1972, and are ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under Public Law 92-336.

(3) Family units ((which are)) ineligible for AFDC solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility.

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(d) The department shall consider earned income tax credits (EITC) ((must be considered)) as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who:

(a) Were concurrent recipients of Title II and SSI benefits; and

(b) Are ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the following were deducted from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases received by the recipient since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the recipient's spouse and/or other financially responsible family member living in the same household.

(5) Certain recipients of SSI, after January 1, 1981, who continue to be eligible for medical assistance (MA) under Public Law 96-265.

(6) Pregnant women, with no other eligible children, who are ineligible for AFDC or FIP cash assistance solely because they have not reached the sixth month of pregnancy.

(7) Persons who are denied AFDC or FIP cash payments solely by reason of recovery of an overpayment.

(8) Children under five years of age, who are born after September 30, 1983, and who meet the income and resource requirements of AFDC financial assistance.

(9) Family units ((which are)) terminated from AFDC financial assistance solely because of the loss of the thirty dollars plus one-third or the thirty-dollar income exemptions shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC.

(10) Children born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year if:

(a) The child remains a member of the mothers household; and

(b) The mother remains eligible for medical assistance; and

(c) The child was born on or after October 1, 1984.

(11) Family units ((which are)) ineligible for AFDC financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of such ineligibility; provided that the family unit:

(a) Received AFDC financial assistance in at least three of the six months immediately preceding the month of such ineligibility; and

(b) Became ineligible for AFDC during or after the month of August 1984 and prior to October 1, 1988.

(12) Pregnant women who do not meet the deprivation requirements of AFDC or FIP financial assistance if:

(a) They would meet the AFDC or FIP financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) They meet the AFDC or FIP financial assistance resource requirements.

(13) Persons who are denied AFDC, FIP or SSI cash assistance solely because of deeming of income of alien sponsors.

(14) Current disabled recipients of widow's or widower's benefits under section 202 (e) or (f) of the Social Security Act if ((he or she)) the disabled person:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and

(b) Was entitled to and received a widow's or widower's benefit based on a disability under section 202 (e) or (f) of the Social Security Act for January 1984; and

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P. L. 98-21 was paid to him or her; and

(d) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the act; and

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under section 215(i) of the act, were disregarded.

(15) Family units suspended from FIP financial assistance because of increased earned income. This period of eligibility shall not exceed twelve months as determined by WAC 388-77-735.

(16) Family units ineligible for FIP solely because of increased hours of employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility provided that:

(a) The family unit received FIP in at least three of the six months immediately preceding the month of ineligibility.

(b) A member of such family continues to be employed.

(c) The family unit is otherwise eligible for FIP except for increased hours of employment.

(d) The department shall consider ETIC as income for purposes of this subsection.

AMENDATORY SECTION (Amending Order 2378, filed 5/14/86)

WAC 388-99-010 PERSONS ELIGIBLE FOR MEDICALLY NEEDY ASSISTANCE. The department shall determine as medically needy ((refers to)) a resident of the state of Washington ((whose income and/or resources are above the limits prescribed for the categorically needy and)) who meets the income and resource limits ((of the SSI program)) in WAC 388-99-020 and 388-99-035 and is:

(1) ((Related to aid to families with dependent children (AFDC). See chapter 388-83 WAC.)

(2) Related to Supplemental Security Income (SSI). See chapter 388-92 WAC.)

(3) Related to state supplementary payment program (SSP).

(4) Under age twenty-one and in:

(a) Foster care, or

(b) Subsidized adoption, or

(c) Skilled nursing facility, intermediate care facility, intermediate care facility/mentally retarded;

(d) An approved inpatient psychiatric facility.

(5) Aged, blind, or disabled and residing in a medical facility with income above the three hundred percent of the SSI [federal] benefit cap] [amount payable under section 1611 (b)(1) of the Social Security Act to an individual in his/her own home who has no income or resources (SSI cap)].

(6) An individual who, but for income and/or resources, would be categorically needy under WAC 388-82-010, or

(2) The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse if:

(a) The ineligible spouse is related to the SSI program due to being aged, blind, or disabled; and

(b) The ((ineligible spouse is not receiving an SSI payment in his/her own right, and

(c) The income of the couple, including SSI payment, are considered.

(7) couple meets the income and resource requirements of this chapter when the total income of the SSI beneficiary is excluded, or

(3) A child under five years of age, born after September 30, 1983.

((#))) (4) A pregnant woman who does not meet the aid to families with dependent children and/or FIP income, resource and/or deprivation requirements. For this subsection:

(a) The period of eligibility includes the ((six weeks following delivery)) sixty-day period beginning with the last day of pregnancy to cover the post partum care; and

(b) The department shall increase the number in the household ((shall be increased)) by one before ((being compared)) comparing the pregnant woman's income to the medically needy income level in WAC 388-99-020; and

(c) The department shall increase the number in the household ((shall be increased)) by one before ((being compared)) comparing the pregnant woman's income to the resource level in WAC 388-99-035.

**WSR 88-06-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 2, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning support services for assessment and employment and training programs in the Family Independence Program, new chapter 388-78 WAC;

that the agency will at 9:30, Thursday, April 7, 1988, in the Auditorium, Room 140, Health Department, West 1101 College Avenue, Spokane, and at 10:00, Tuesday, April 5, 1988, in the OB-2 Auditorium, 12th and Franklin, Olympia, and at 10:00, Wednesday, April 6, 1988, in the North Auditorium, 4th Floor, 915 2nd Avenue, Federal Building, Seattle, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 8, 1988.

The authority under which these rules are proposed is chapter 74.21 RCW.

The specific statute these rules are intended to implement is chapter 74.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: March 1, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: New chapter 388-78 WAC.

Purpose of the Rule or Rule Change: To implement the Family Independence Program (FIP).

Reason this Rule is Necessary: To meet legislative mandate SHB 448, April 14, 1987.

Statutory Authority: ESHB 448, chapter 434, Laws of 1987, and chapter 74.21 RCW.

Summary of Rule or Rule Change: Provides for support services for assessment and employment and training activities in FIP. Also provides for child care in FIP. FIP is a five-year demonstration as an alternative to

public assistance through economic independence for employable adults.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Ken Anderson, WAC 388-78-005 through 388-78-120, Program Manager, Division of Income Assistance, Office of Policy and Program Development, scan 234-4920, mailstop OB-31C; and Karen Tvedt, WAC 388-78-205 through 388-78-220, FIP Child Care Coordinator, Children, Youth and Family Services, scan 321-6066, mailstop OB-41.

These are not necessary as a result of federal law, federal court decision or state court decision.

**Chapter 388-78 WAC
SUPPORT SERVICES FOR ASSESSMENT AND EMPLOYMENT AND TRAINING PROGRAMS IN THE FAMILY INDEPENDENCE PROGRAM**

NEW SECTION

WAC 388-78-005 GENERAL PROVISIONS. (1) The following rules are adopted under authority of chapter 74.21 RCW.

(2) All decisions related to eligibility, participation, and work and training activities are subject to fair hearing rules according to chapter 388-08 WAC.

NEW SECTION

WAC 388-78-010 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Assessment" means evaluation of the appropriateness of work, education, or training options for FIP enrollees.

(2) "Child care" means the selection and payment of appropriate day care resources to enable assessment and participation in the FIP self-sufficiency plan.

(3) "Department" means the department of social and health services.

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive financial assistance or other services under the family independence program.

(5) "Fair hearing" means an administrative proceeding under chapter 34.04 RCW by which the office of administrative hearings hears and decides the appeal of an enrollee from an action or decision of the department.

(6) "FIP" means the family independence program pursuant to chapter 74.21 RCW.

(7) "Incapacity" means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss as documented by a current physician's statement when:

(a) A person cannot be expected to work at gainful employment more than one-half time customarily required of fully employable persons; or

(b) A person cannot perform necessary homemaking activities and/or provide adequate care for the children without help from other individuals; or

(c) A person with limited skill and abilities is working more than half time in a special workshop or special work arrangement for handicapped individuals and the work is not fully competitive; or

(d) The incapacity is expected to last for a period of thirty days or more from the date of application for FIP.

(8) "Participation" means the active pursuit by a FIP enrollee of employment and training plans agreed to in the self-sufficiency plan.

(9) "Self-sufficiency plan" means a written plan agreed to and signed by a FIP enrollee and the department that is intended to prepare the enrollee for long-term unsubsidized employment and economic independence.

NEW SECTION

WAC 388-78-015 SUPPORTIVE SOCIAL SERVICES. (1) The department shall provide supportive social services, within available funding, to an enrollee in the family independence program to enable his or her accomplishment of the self-sufficiency plan. These services may include, but are not limited to:

- (a) Child care;
- (b) Medical and dental assistance not otherwise available to a participant;
- (c) Parenting education;
- (d) Training in family responsibility and management skills;
- (e) Financial management counseling;
- (f) Family planning information and referral;
- (g) Mentor services; and
- (h) Personal counseling.

(2) The department shall refer enrollees to other departmental services and services of other agencies as judged necessary. These may include, but are not limited to:

- (a) Mental health services;
- (b) Vocational rehabilitation services;
- (c) Legal assistance;
- (d) Alcohol and substance abuse treatment resources;
- (e) Developmental disabilities services;
- (f) Displaced homemaker program services;
- (g) Child and adult protective services; and
- (h) Other community-based organization services.

(3) When the department of social and health services has approved funding to support an approved self-sufficiency plan, such funding shall continue, subject to annual review and available funding, for the duration of the enrollee's approved self-sufficiency plan.

NEW SECTION

WAC 388-78-020 SELF-SUFFICIENCY PLAN. (1) The department shall consult with employment security FIP staff, when requested, in the development of the self-sufficiency plan.

(2) The department shall provide social casework and referral services, when requested, to enable the enrollees to accomplish the self-sufficiency plan.

(3) The self-sufficiency plan is subject to the approval of the department of social and health services.

NEW SECTION

WAC 388-78-100 FIP EMPLOYMENT AND TRAINING REQUIREMENTS. (1) The department shall require all FIP enrollees to participate in assessment activities with the following exceptions:

- (a) An enrollee who is on FIP assistance for the first time until the enrollee has been on FIP assistance for six months;
 - (b) A person under 16 years of age or over 64 years of age;
 - (c) A person over 16 years of age who is in high school;
 - (d) A person who is incapacitated, temporarily ill, or is needed at home to care for an impaired person; and
 - (e) A person who is in the third trimester of pregnancy.
- (2) An enrollee exempt from mandatory assessment may volunteer for assessment.
- (3) Enrollee participation beyond assessment in FIP employment and training programs is voluntary.

NEW SECTION

WAC 388-78-120 GRIEVANCE PROCEDURE AND ADMINISTRATIVE REVIEWS AND APPEALS. (1) An enrollee aggrieved by a decision of the department shall have the right to present a written grievance to the supervisor of the line worker.

(2) The supervisor shall make a decision on a grievance and notify the recipient in writing within 10 days of receipt of the grievance.

(3) The enrollee shall have the right to present the grievance in writing to the local office administrator if the enrollee is not satisfied with the decision of the supervisor.

(4) The local office administrator shall make a decision on a grievance and send the enrollee a written notice of the decision within 10 days of receipt of the grievance. This notice terminates the grievance procedure.

(5) The exercise of the right to pursue a grievance shall not in any way preclude or prejudice the exercise of any rights the enrollee may have under fair hearing, chapter 388-08 WAC.

(6) The department may choose to respond to the grievance by informing the enrollee that the department prefers to resolve the matter through the administrative or judicial review process if administrative or judicial review is pending on the same issue.

(7) An enrollee aggrieved by an action or decision of the department, including requiring or denying participation in a work, training,

or education activity, has the right to request a fair hearing to be conducted by the office of administrative hearings in accordance with chapters 34.04 and 34.12 RCW. The aggrieved person is entitled to all fair hearing rights provided under RCW 74.08.070 and to rights of judicial review therefrom as provided in RCW 74.08.080.

NEW SECTION

WAC 388-78-205 FIP CHILD CARE. The department shall:

- (1) Authorize and make child care payments necessary to enable an enrollee to work and to allow teenage parents to remain in school.
- (2) Provide information to an enrollee about:
 - (a) Selection of child care providers;
 - (b) Community child care resources; and
 - (c) Child care subsidies available through the department.
- (3) Subject to annual review, and within available funds, make child care payments as a part of an approved self-sufficiency plan for job search, training, and education until the enrollee is no longer eligible for FIP benefits.

NEW SECTION

WAC 388-78-210 STANDARDS FOR CHILD CARE PROVIDERS. (1) The department shall pay only a licensed child care provider who is required by statute to be licensed.

(2) The department shall pay a school-operated child care program that demonstrates compliance with state child day care minimum licensing standards.

(3) The department shall pay an in-home child care provider only after:

- (a) The department has provided the enrollee with information about the criteria for selecting an in-home child care provider. The criteria are that the provider be:
 - (i) Eighteen years of age or older;
 - (ii) Free of communicable disease;
 - (iii) Of sufficient physical, emotional, and mental health to meet the needs of the children in care;
 - (iv) Able to work with children without using physical punishment or psychological abuse; and
 - (v) Prompt and regular in-job attendance.
- (b) A release is obtained for the department to initiate a criminal history/arrest record check.

NEW SECTION

WAC 388-78-215 PAYMENT STANDARDS FOR CHILD CARE SERVICES. (1) The department shall develop a payment system which includes:

- (a) A rate that reflects the higher costs associated with providing care for infants, toddlers, and children with special needs;
- (b) A rate that reflects geographic variations in the cost of care; and
- (c) A process for periodic review of a rate. The process shall include:
 - (i) A survey of a prevailing child care rate; and
 - (ii) Creation of a rate advisory committee which shall make recommendations to the FIP executive committee.

(2) Payment for child care shall not exceed the maximum rate adopted by the FIP executive committee.

(3) The department shall not pay the father, mother, brother, sister, stepfather, stepmother, stepbrother, or stepsister of the child for child care. Care by other relatives is considered in-home care whether provided in the relative's home or in the child's home.

(4) When a relative provides child care services as a licensed child care provider, the department shall pay the applicable out-of-home rate for the type of care.

(5) The department shall pay the enrollee when the enrollee selects in-home care. The enrollee shall pay the in-home caregiver the amounts authorized in the approved child care plan.

(6) When the anticipated payments to an in-home caregiver are fifty dollars or more in a calendar quarter, the department shall add the employer's share of the FICA tax to the amount authorized.

(7) The department shall issue an authorizing voucher to the parent and pay the provider, based on the terms of the voucher, when the enrollee selects out-of-home care.

NEW SECTION

WAC 388-78-220 CHILD DAY CARE CO-PAYMENTS. The department shall provide child care subsidies to an enrollee who has

terminated from FIP cash assistance due to increased earnings, subject to the following limitations:

- (1) The department shall provide services on a co-payment basis;
- (2) Subsidization of child care services shall not extend more than 12 months following termination of cash assistance;
- (3) An enrollee shall participate in the cost of care not to exceed 25 percent of the cost of care or 25 percent of the amount by which the family's income exceeds 135 percent of the benchmark, whichever is the lesser amount; and
- (4) An enrollee shall pay the co-payment share of the child care costs directly to the child care provider.

**WSR 88-06-079
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 2, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning definitions, amending WAC 388-49-020;

that the agency will at 10:00 a.m., Tuesday, April 5, 1988, in the OB-2 Auditorium, 12th and Franklin, Olympia 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1988.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: March 2, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.
Amending WAC 388-49-020(56).

Purpose: To amend the definition of "parental control."

The amendments are necessary to reconcile conflicting WAC rules.

Statutory Authority: RCW 74.04.510.

The definition of "parental control" is amended to delete reference to age, and expressly include the conditions of living with the parent or any adult other than the natural parent.

Person Responsible for Rule Drafting and Implementation: Daniel A. Ohlson, Community Services Program Manager, Division of Income Assistance, scan 234-1354, OB-31C.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-020 DEFINITIONS. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not an individual committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by department action or failure to act when the household properly and accurately reported all the household's circumstances to the department.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to conduct contested case hearings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household and paying reasonable compensation to the household for lodging and meals.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone under eighteen years of age and under parental control.

(14) "Collateral contact" means contact with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means a licensed enterprise offering meals and lodging for compensation.

(16) "Dependent care deduction" means payment made to a non-household member for care of a child or other dependent when a household member is seeking, accepting, or continuing employment, or attending training or education leading to employment.

(17) "Destitute household" means a household with migrant or seasonal workers with little or no income at the time of application in need of immediate food assistance.

(18) "Disabled person" means a person who meets one of the following criteria:

(a) Receives supplemental security income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran with service-connected disability rated or paid as a total under Title 38 of the United States Code (USC), or considered in need of regular aid and attendance, or permanently housebound under such title;

(d) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a

veteran and considered to be permanently incapable of self-support under Title 38 of the USC; or

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act.

(19) "Documentary evidence" means written confirmation of a household's circumstances.

(20) "Documentation" means the process of recording the source, date, and content of verifying information.

(21) "Elderly person" means a person sixty years of age or older.

(22) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.

(23) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(24) "Equity value" means fair market value less encumbrances.

(25) "Excluded household member" means a member who is excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a social security number;

(c) Failure to comply with work registration or employment and training program services requirements; or

(d) Status as an ineligible alien.

(26) "Expedited services" means quick provision of food stamps to households with little or no income and resources or destitute migrant or seasonal farm workers having immediate need for food assistance.

(27) "Fair hearing" means a hearing conducted by the office of administrative hearings at the client's request to decide whether action taken or intended action by the department is correct.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the budget month, the process month, and the payment month.

(32) "Gross income eligibility standards" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private non-profit residential setting serving no more than sixteen residents certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(35) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(36) "Homeless food stamp household" means an eligible food stamp household having no fixed mailing address or not residing in a permanent dwelling.

(37) "Homeless meal provider" means a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by division of income assistance (DIA) and authorized by FNS.

(38) "Household" means the basic client unit in the food stamp program.

(39) "Household disaster" means when food purchased with food stamps are destroyed by a natural disaster, such as flood, fire, etc.

(40) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(41) "Inadvertent household error overissuance" means any overissuance caused by misunderstanding or unintended error on the part of the household.

(42) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(43) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(44) "Intentional program violation," after August 8, 1983, means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended prior to August 8, 1983, consists of any action by an individual or individuals to knowingly, willfully, and with deceitful intent:

(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;

(b) Conceal information to obtain benefits to which the household is not entitled;

(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;

(d) Use coupons to buy expensive or conspicuous nonfood items;

(e) Use or possess improperly obtained coupons or authorization cards; and

(f) Trade or sell coupons or authorization cards.

(45) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(46) "Live-in attendant" means an individual residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(47) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,

(b) Rebates,

(c) Retroactive payments, and

(d) Insurance settlements.

(48) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(49) "Migrant farmworker" means an individual working in seasonal agricultural employment and who is required to be absent overnight from his or her permanent place of residence.

(50) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(51) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

(a) Boarder;

(b) Live-in attendant or ineligible student; and

(c) An individual who does not purchase and prepare meals with the food stamp household.

(52) "Nonstriker" means any person:

(a) Exempt from work registration the day prior to the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed by employer in order to resist demands of employees, e.g., a lockout.

(53) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(54) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(55) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

((56)) ("Parental control" (*in loco parentis*) means that a child under eighteen years of age lives with parents or is under the control of the parent or any adult other than natural parents. Anyone seventeen years of age or younger who is not married and lives with an adult (eighteen years of age or over), whether related or not, is considered under parental control of the adult and may not be certified as a separate household.

((57)) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

((58)) ((57)) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

((59)) ((58)) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

((60)) ((59)) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

((61)) ((60)) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

((62)) ((61)) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

((63)) ((62)) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

((64)) ((63)) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

((65)) ((64)) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

((66)) ((65)) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

((67)) ((66)) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

((68)) ((67)) "Resident of an institution" means a person who resides in an institution that provides the individual with the majority of meals as part of the institution's normal service.

((69)) ((68)) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

((70)) ((69)) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

((71)) ((70)) "Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

((72)) ((71)) "Seasonal farmworker" means an individual working in seasonal agricultural employment who is not required to be absent from his or her permanent place of residence overnight.

((73)) ((72)) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home including interest on such payments.

((74)) ((73)) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

((75)) ((74)) "Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.

((76)) ((75)) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

((77)) ((76)) "Sponsored alien" means an alien lawfully admitted for permanent residence.

((78)) ((77)) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

((79)) ((78)) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

((80)) ((79)) "Student" means any person:

(a) Between eighteen and sixty years of age,

(b) Physically and mentally fit for employment, and

(c) Enrolled at least half time in an institution of higher education.

((81)) ((80)) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

((81)) "Under parental control" means living with the parent or any adult other than the natural parent.

((82)) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

((83)) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

((84)) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

**WSR 88-06-080
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 2, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Resources—Exempt, amending WAC 388-49-410;

that the agency will at 10:00 a.m., Tuesday, April 5, 1988, in the OB-2 Auditorium, 12th and Franklin, Olympia 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1988.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troye Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: March 2, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.
Re: WAC 388-49-410.

Purpose of the Rule Change: To implement the provisions of the Food Security Act of 1985; to allow resources that have a lien against them to be considered unavailable under certain situations. This change implements the Code of Federal Regulations 273.8 (e)15; and to allow the department to exclude real or personal property that is maintained or used for an excludable vehicle to also be excluded as a resource. This change implements the Code of Federal Regulations 273.8 (h)(1)(vi).

Subsection R [(r)] (i) and (ii) has been renumbered for clarity.

Statutory Authority: RCW 74.04.400.

Summary of the Rule Change: This change adds to excluded resources any asset that a lien has been attached to because of a business loan if the household member is prohibited by the lien agreement from selling the asset; and real or personal property used to maintain an excluded vehicle.

Person Responsible for Rule Drafting and Implementation: Jack Hecht, Community Services Program Manager, Division of Income Assistance, scan 234-4918, OB-31C.

This rule change is necessary as a result of federal law, 7 CFR 273.8 (e)15 and 273.8 (h)(1)(vi).

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-410 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if:

(i) The household intends to return to the home, and

(ii) The house is unoccupied due to:

(A) Employment,

(B) Training for future employment,

(C) Illness, or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

- (g) Cash value of:
- (i) Life insurance policies, and
- (ii) Pension funds.
- (h) Vehicles as provided in WAC 388-49-430;
- (i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430
- (1)(a), (b), and (f);
- (j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;
- ((t)) (k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;
- ((k)) (l) Property essential to the employment or self-employment of a household member;
- ((t)) (m) Resources held separately by nonhousehold members;
- ((m)) (n) Indian lands:
- (i) Held jointly with the tribe, or
- (ii) Sold only with the approval of the Bureau of Indian Affairs.
- ((m)) (o) Resources prorated as income for self-employed persons or eligible students. These monies, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;
- ((t)) (p) Cash value of resources not accessible to the household;
- ((p)) (q) Funds in a trust and the income produced by that trust, to the extent they are not available;
- ((q)) (r) Resources excluded by express provision of federal law from consideration in the food stamp program;
- ((t)) (s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value((c));
- ((t)) (t) Value of the property sold under an installment contract; (and)
- ((t)) (u) The value of property held for security if the purchase price is consistent with fair market value;
- (v) Real or personal property when:
- (i) Secured by a lien as a result of obtaining a business loan; and
- (ii) The security or lien agreement prohibits the household from selling the asset or assets.
- ((t)) (w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;
- ((t)) (x) Energy assistance payments or allowances made under federal, state, or local laws; and
- ((t)) (y) Resources of persons residing in shelters for battered women and children if:
- (i) The resources are jointly owned with members of the former household, and
- (ii) Access to the resources depends on the agreement of the joint owner.
- (2) Exempt moneys commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

WSR 88-06-081
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Income—Exclusions, amending WAC 388-49-470;

that the agency will at 10:00 a.m., Tuesday, April 5, 1988, in the OB-2 Auditorium, 12th and Franklin, Olympia 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1988.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: March 2, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Amending WAC 388-49-470.

Purpose: To adopt new rules authorizing the department to exclude certain money as income in the food stamp program.

The amendments are necessary as a result of rules published by Food and Nutrition Service.

Statutory Authority: RCW 74.04.510.

The department shall exclude earnings of household members under 19 years old, under parental control, who are participating in on-the-job training programs in the Job Training Partnership Act; public assistance payments which are over and above the regular warrant, not normally a part of the warrant, and when paid directly to a third party; and income specifically excluded by any other federal statute from consideration as income.

Person Responsible for Rule Drafting and Implementation: Daniel A. Ohlson, Community Services Program Manager, Division of Income Assistance, scan 234-1354, OB-31C.

The rules are necessary as a result of federal law, 7 CFR Parts 273.9 (c)(10), (b)(1)(v) and (c)(1)(iv)(B).

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-470 INCOME—EXCLUSIONS. (1) The department shall exclude the following income:

((1))) (a) Money withheld from an assistance payment, earned income, or other income source used to repay a prior overpayment from that same income source.

((2)) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(3) Payments made to volunteers under Title I of the Domestic Volunteer Service Act of 1973 for:

(a) Persons receiving public assistance or food stamps at the time the person joined the Title I program;

(b) Households receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977, or

(c) Temporary interruptions in food stamp participation shall not alter the exclusion once an initial determination has been made.

(4) Payments made to volunteers under Title II of the Domestic Volunteer Services Act of 1973.

(5) Payments from submarginal land held in trust for certain Indian tribes as designated by P.L. 94-114 and P.L. 94-540.

(6) Payments from the disposition of funds to the Grand River Band of Ottawa Indians.

(7) Payment from the Indian claims commission to the confederated tribe of the Yakima Indian nation.

(8) Payment to Alaskan natives under the terms of the Alaskan Native Claims Settlement Act

((9))) (b) Any income specifically excluded by any other federal statute from consideration as income in the Food Stamp Program.

(c) The earned income of children who are:

((a))) (i) Members of the household,
((b))) (ii) Under eighteen years of age, and
((c))) (iii) Attending school at least half time.

((d))) When a child's earnings or amount of work performed cannot be differentiated from the earnings or work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members, and
(b) Exclude the child's pro rata share.)

((e))) (d) Infrequent or irregular income received during a three-month period that:

((a))) (i) Cannot be reasonably anticipated as available, and
((b))) (ii) Shall not exceed thirty dollars for all household members.

((f))) (e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred.

((g))) (f) Nonrecurring lump sum payments.

((h))) (g) The cost of producing self-employment income.

((i))) (h) Financial aid received under Title IV of the Higher Education Act designated by the school for:

((a))) (i) Tuition,

((b))) (ii) Fees (including equipment and material),

((c))) (iii) Books,

((d))) (iv) Supplies,

((e))) (v) Transportation, and

((f))) (vi) Miscellaneous personal expenses as determined by the institution.

((g))) (i) Other federal financial aid designated by the school for:

((a))) (i) Tuition, and

((b))) (ii) Mandatory fees.

((c))) (j) Nonfederal financial aid designated by the school for:

((a))) (i) Tuition and mandatory fees at any school beyond high school or a school at any level for the physically or mentally handicapped; and

((b))) (ii) Other earmarked educational expenses such as transportation, supplies, textbooks, and child care.

((d))) (k) Reimbursements for past or future expenses to the extent the reimbursements do not:

((a))) (i) Exceed the actual expense, and

((b))) (ii) Represent a gain or benefit to the household.

((c))) (l) Any gain or benefit not in money.

((d))) (m) Vendor payments as defined in WAC 388-49-020.

((e))) (n) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member. ((When the intended beneficiaries of a single payment include both household members and persons not in the household, the excluded amount shall be:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household, or

(b) If the portions are not readily identified as:

(i) An even pro rata share, or

(ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.)

((f))) (o) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs.

((g))) (p) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

((h))) (q) Money specified by court order or other legally binding agreement to go directly to a third-party beneficiary rather than to the household.

((25)) (r) Support payments not required by a court order or other legally binding agreement paid directly to a third party rather than to the household.

((26)) (s) Payments from the Individual and Family Grant Program.

(t) Public assistance payments when they are:

- (i) Over and above the regular warrant amount; and
- (ii) Not normally a part of the regular warrant; and
- (iii) Paid directly to a third party on behalf of the household.

(u) Earnings from on-the-job training programs under the Job Training Partnership Act by household members:

- (i) Under 19 years of age; and
- (ii) Under parental control.

(2) When a child's earnings or amount of work performed cannot be differentiated from the earnings or work performed by other household members, the department shall:

- (a) Prorate the earnings equally among the working members, and
- (b) Exclude the child's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the excluded amount shall be:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household, or

(b) If the portions are not readily identified as:

- (i) An even pro rata share; or
- (ii) The amount actually used for the care and maintenance of the person out of the household, whichever is less.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 88-06-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 2, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Income—Deductions, amending WAC 388-49-500;

that the agency will at 10:00 a.m., Tuesday, April 5, 1988, in the OB-2 Auditorium, 12th and Franklin, Olympia 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1988.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 5, 1988.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Troyce Warner
Office of Issuances
Department of Social and Health Services
Mailstop OB-33H
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 22, 1988. The meeting site is in a location which is barrier free.

Dated: March 2, 1988
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.
Amending WAC 388-49-500.

Purpose: To change the rule pertaining to food stamp program dependent care deductions; to adopt a new shelter deduction limit for household certified before October 1, 1987, for eligibility effective October 1, 1987; to add an effective date for the current shelter deduction; to arrange income and income deduction rules under one section; to delete reference to WAC 388-49-470 for earned income exclusions; and to amend the medical deduction rule.

The changes will enable the department to administer the food stamp program and aid to families with dependent children programs with more consistent eligibility rules; and clarify current food stamp program rules.

Statutory Authority: RCW 74.04.510.

Summary of Changes: The medical deduction over \$35.00 applies only to household members who are elderly or disabled; households certified before October 1, 1987, for benefits effective October 1, 1987, shall receive a maximum shelter deduction of \$152.00; households certified on or after October 1, 1987, for eligibility effective October 1, 1987, shall receive a maximum shelter deduction of \$164.00; WAC 388-49-500 (6)(D) is deleted; and households are allowed dependent care costs incurred rather than paid.

Person Responsible for Rule Drafting and Implementation: Daniel A. Ohlson, Community Services Program Manager, Division of Income Assistance, scan 234-1354, OB-31C.

Rules are required by federal law, 7 CFR 273.9(d).

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-500 INCOME—DEDUCTIONS. (1) The department shall allow the following deductions when computing net income:

((1))) (a) A standard deduction of one hundred two dollars per household per month.

((2))) (b) An earned income deduction of twenty percent of gross earned income((. Exclude earnings)) except as provided in WAC ((388-49-470 from gross earned income)) 388-49-640(8) concerning intentional program violation overpayments.

((3))) (c) A dependent care deduction of the actual amount ((paid)) incurred not to exceed one hundred sixty dollars((:

(a) A dependent care deduction shall be allowed)) when the care is necessary for a household member to:

(i) Seek, accept, or continue employment((.)); or

(ii) ((Seek employment, or

(iii))) Attend training or education preparatory to employment.

((b) The department shall verify dependent care costs except in prospective budgeting. Changes in cost shall be verified.

((4))) (d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars ((for households containing an)) incurred by a household member who is elderly or disabled ((person)).

((a)) The department shall verify medical expenses and the reimbursement amounts resulting in a deduction except in prospective budgeting:

(i) At recertification, if the amount has changed more than twenty-five dollars, and

(ii) On a monthly basis for households subject to monthly reporting:

(b) If the reimbursement cannot be verified, the household shall be certified without allowing the deduction except in prospective budgeting.

((5))) (e) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, and dependent care deductions.

(i) The shelter deduction shall not exceed one hundred sixty-four dollars for a household certified on or after October 1, 1987.

(ii) The shelter deduction shall not exceed one hundred fifty-two dollars for a household certified before October 1, 1987, for the life of the certification period.

((a))) (f) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) Shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if:

(i) The household intends to return to the home;

(ii) The current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) The home is not being leased or rented during the household's absence.

(b) ((An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions have been made for households containing an elderly or disabled person.

((6))) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster.

((7)) (c) ((Households shall be entitled to claim)) The standard utility allowance when ((incurring)) a household incurs any separate utility charges for heating or cooling costs. ((They are households)) A household may incur a separate utility charge when it:

((a))) (i) Has not yet ((receiving)) received a billing for utilities ((may use a collateral contact from a landlord or utility company to confirm a separate billing from rent or mortgage)); or

((b))) (ii) Is billed monthly by ((their landlords)) the landlord for actual usage as determined through individual metering ((qualifying for the standard utility allowance)); or

((c))) (iii) ((Sharing)) Shares residence and utility costs with other persons ((permitted to use)), in which case the deduction is for the household's prorated share of the standard allowance((, and)).

(d) ((Living in public or other rental housing having central utility meters and charged only for excess utility costs (not eligible for the standard utility allowance).

(8) Households shall be entitled to use)) Actual utility costs rather than the standard utility allowance if the household is:

((a))) (i) Not entitled to the standard utility allowance, or

((b))) (ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

((9))) (3) ((Households shall be entitled to)) A household may switch between actual utility costs and the standard utility allowance:

(a) At each recertification, and

(b) One additional time during each twelve-month period following the initial certification action.

((10))) (4) The department shall verify:

(a) Continuing shelter costs, if allowing the costs could potentially result in a deduction. Verify on a one-time basis unless the household has:

(i) Moved, or

(ii) Reported an increase in costs affecting the amount of the deduction or the information is questionable.

(b) Utility expenses:

(i) If the household is entitled to the standard utility allowance. Verify on a one-time basis unless the household has moved, changed its utilities, or the information is questionable; or

(ii) On a one-time basis if the household wishes to claim actual utility expenses at initial certification, recertification, or on a monthly basis for households subject to monthly reporting.

(c) Dependent care costs including changes, except in prospective budgeting.

(d) Medical expenses and the reimbursement amounts resulting in a deduction:

(i) At recertification, if the amount has changed more than twenty-five dollars, and

(ii) On a monthly basis for a household subject to monthly reporting.

(5) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction, except in prospective budgeting.

WSR 88-06-083

ADOPTED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2600—Filed March 2, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd ch. 388-86 WAC Medical care—Service provided.

Amd ch. 388-87 WAC Medical care—Payment.

This action is taken pursuant to Notice No. WSR 88-03-021 filed with the code reviser on January 12, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 78.08.090 [74.08.090].

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 26, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2580, filed 12/31/87)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF CATEGORICAL NEEDY MEDICAL ASSISTANCE. (1) The department shall provide the following Title XIX mandatory services:

(a) Early and periodic screening diagnosis and treatment services to eligible individuals under twenty-one years of age;

(b) Family planning services;

(c) Home health agency services;

(d) Inpatient and outpatient hospital care;

(e) Other laboratory and x-ray services;

(f) Skilled nursing home care;

(g) Certified registered nurse practitioner services;

(h) Physicians' services in the office or away from the office as needed for necessary and essential medical care (and

(i) ~~Patient transportation services~~).

(2) The department shall provide the following Title XIX optional services:

- (a) Anesthetization services;
- (b) Blood;
- (c) Chiropractic services;
- (d) Drugs and pharmaceutical supplies;
- (e) Eyeglasses and examination;
- (f) Hearing aids and examinations;
- (g) Nurse midwife services;
- (h) Oxygen;
- (i) Physical therapy services;
- (j) Private duty nursing services;
- (k) Rural health clinic services;
- (l) Surgical appliances;
- (m) Prosthetic devices and certain other aids to mobility;
- (n) Dental services.

(3) Organ transplants shall be limited to the heart, kidney, liver, and bone marrow.

(4) Treatment, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys shall be provided in the home, hospital and kidney center. See WAC 388-86-050(5).

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis shall not be provided as a part of the medical assistance program. The department shall provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition shall be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(7) The department shall approve requested services:

(a) That are listed in this section; and
 (b) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

(8) A request for medical services shall be denied by the department if the requested service:

(a) Is not medically necessary as defined in WAC 388-80-005; or

(b) Is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

(9) The department shall:

(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request; or

(b) If additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information:

(i) Is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied.

(ii) Is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

(10) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. The notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service.

(b) The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing.

(c) The recipient may be represented at the hearing by legal counsel or other representative.

(d) That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office.

(e) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department.

(11) For services available under:

(a) The limited casualty program—medically needy (see chapter 388-99 WAC); and

(b) The limited casualty program—medically indigent (see chapter 388-100 WAC.)

(12) The department may require a second opinion and/or consultation prior to the approval of any elective surgical procedure.

(13) The department shall designate those surgical procedures which:

(a) Can be performed in other than a hospital in-patient setting; and

(b) Require prior approval by the area medical unit for a hospital admission.

(14) The department shall assure the availability of necessary transportation to and from covered title XIX medical services.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

WAC 388-86-085 ((PATIENT)) TRANSPORTATION (OTHER THAN AMBULANCE). (1) The department ((will)) shall assure the availability of necessary transportation for recipients to and from medical care services covered under the medical assistance program ((in accordance with the following guidelines):

~~(a) "Patient transportation" shall be provided only when other sources of transportation are not available.~~

~~(b) Transportation shall be provided for the least expensive available means suitable to the recipient's medical need.~~

~~(c) Transportation shall be provided only to medical care within the local community unless necessary medical care is not available locally.~~

(d) All nonemergent medical transportation requires prior approval).

(2) ((Ambulance transportation may be provided when medical necessity is clearly demonstrated and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable)) Transportation shall be provided as a medical service or as an administrative service in designated counties.

(3) ((Air ambulance transportation may be provided when:

(a) Necessary medical treatment is not available locally; and

(b) The emergent need for medical treatment and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable)) Transportation shall only be provided or arranged through designated contractors/brokers in counties/areas where transportation is provided as an administrative service.

(4) When transportation is provided as a medical service the following guidelines shall apply:

(a) Reimbursement for recipient transportation shall only be made:

(i) When other sources of transportation are not available, accessible, or suitable to the medical needs of the recipient; and

(ii) Only for the least expensive mode of transportation available that is suitable to the recipient's medical need; and

(iii) Only for transportation to and from covered medical care within the local community unless necessary and covered medical care is not available locally.

(b) Cabulance transportation ((may)) shall be ((provided)) authorized when the medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable.

((5) Transportation by taxi may be provided when medically necessary. "Taxi shared ride service" must be utilized when transportation can be scheduled at least four hours in advance and the "shared ride service" is available in the community.

(6) Transportation by private automobile other than owned by recipient is payable at rates established by the department.

((7))) (c) Nonprofit organizations may provide transportation for recipients ((in accordance with the following guidelines):

(a) Group or shared ride service must be utilized when transportation can be scheduled in advance and when the group or shared ride service is available through the nonprofit organization.

(b) Transportation using)) when personal transportation, volunteer transportation, and/or transit services are not available or not accessible by the recipient, and transportation is medically necessary.

(d) The use of specialized equipment, such as wheelchair lifts, ((may)) shall be ((used)) authorized when the medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable.

((c) Transportation must be approved by the department:

((t))) (e) Recipients or volunteers shall be reimbursed at rates established by the department for transportation to and from medically necessary and covered services by private automobile owned by recipient is payable at rates established by the department under the following conditions:

((a))) (i) Recipient's own automobile must be the least expensive available means suitable to the recipient's medical need. Other transportation ((will)) shall be presumed available if the location of medical services is not more than twenty miles from the recipient's home or if public transportation is available;

((b))) (ii) Transportation shall not be provided outside of the local community unless necessary medical care is not available locally, and transportation outside of the local medical community shall be to a reasonable and least costly location where providers are able and willing to provide the necessary and covered medical services.

((9) Transportation by intercity bus may be provided:

((10) Commercial air transportation may be provided when:)) (f) Taxi transportation shall be authorized when medically necessary and other less expensive modes of transportation are not available or not appropriate to meet the recipient's needs.

(g) Interstate and intrastate transportation (e.g., bus, train, air, etc.) shall be authorized when:

((a))) (i) Transportation is medically necessary; and

((b))) (ii) Necessary medical treatment is not available locally; and

((c))) (iii) The physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(h) Providers shall be certified in accordance with rules established by the division of medical assistance and shall operate their services in accordance with all federal, state, and local ordinances, statutes, and regulations.

NEW SECTION

WAC 388-86-086 AMBULANCE SERVICES.

(1) Ambulance services shall be provided to transport recipients to and from medical care services covered under the medical assistance program in accordance with the following guidelines:

(a) Transport by ambulance shall be provided when medical necessity is clearly demonstrated and the physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(b) Transport shall only be made to and from medical services within the local community unless necessary medical care is not available locally.

(2) Air ambulance services shall be provided when:

(a) Necessary medical treatment is not available locally; and

(b) The emergent need for medical treatment and the physical condition of the recipient is such that the use of any other mode of transportation is inadvisable.

AMENDATORY SECTION (Amending Order 2207, filed 2/14/85)

WAC 388-87-010 CONDITIONS OF PAYMENT—GENERAL. (1) The department shall be responsible for payment of service rendered to a recipient only when the services are within the scope of care, properly authorized and the recipient certified as eligible.

(2) The fees and rates established by the department shall constitute the maximum allowable payment for approved medical care and services provided to recipients by the providers, except as specified in chapter 388-86 WAC.

(3) When a provider of service furnishes services to an eligible recipient and does not bill the department for services for which the department is responsible for payment, or fails to satisfy department conditions of payment such as prior approval and timely billing, the recipient is under no obligation to pay the provider.

(4) Payment for any service furnished to a recipient by a provider may not be made to or through a factor who advances money to that provider for accounts receivable.

(5) The department will not be responsible for payment for medical care and goods and/or services provided to a recipient enrolled in a department-contracted, prepaid medical plan who fails to use the provider under contract unless emergency conditions exist or the department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(6) The department will not be responsible for payment of that portion of medical care or services reimbursable within a reasonable time by a third-party resource available to the recipient such as health insurance coverage, casualty insurance or when medical needs result from accident or injury caused by another party. See chapter 388-83 WAC.

(7) Payment for care under the medical assistance or limited casualty-medically needy programs will be retroactive for three months prior to the month of application provided the applicant would have been eligible when the care was received. The applicant need not be eligible at the time of actual application. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(8) Payment for care under the limited casualty program—medically indigent may be retroactive for seven days prior to the date of application if applicant is otherwise eligible. Medical services that require approval must be approved by the CSO medical consultant for the retroactive period.

(9) A claim by a provider for payment for services rendered to a person who subsequently is determined to be ineligible at the time service was rendered may be paid under the following conditions only:

(a) The ineligible person must have been certified as both financially and medically eligible,

(b) Payment has not been made from sources outside the department,

(c) A request for such payment must be submitted and approved by the division of medical assistance.

(10) Payment for medically necessary services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(11) Payment for well-baby care is not authorized except as provided under the EPSDT program. See WAC 388-86-027.

(12) In counties/areas where transportation is provided as a medical service, payment for medically necessary transportation services, provided by nonprofit organizations ((may)) shall be based on the operating costs incurred in providing the service but shall not exceed the rates established by the department.

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

WAC 388-87-027 SERVICES REQUIRING PRIOR APPROVAL. (1) The following services require prior approval:

(a) Nonemergent surgical procedures – see WAC 388-86-095;

(b) Prosthetic devices and durable medical equipment and nonreusable medical equipment – see WAC 388-86-100;

(c) All out-of-state air transportation;

(d) Allergy testing;

(e) Apnea monitoring;

(f) Drugs not listed in the departmental formulary or any single prescription exceeding the maximum limits established – see WAC 388-91-020;

(g) Home ventilator therapy;

(h) Medical eye care services;

(i) Nonemergent hospital admissions – see WAC 388-86-050 and 388-87-070;

(j) ((Nonemergent medical)) Transportation (other than ambulance) – see WAC 388-86-085;

(k) Orthodontic treatment – see WAC 388-86-027;

(l) Out-of-state medical care which is not available within Washington state;

(m) Physical medicine, rehabilitation and treatment – see WAC 388-86-112;

(n) Physical therapy services – see WAC 388-86-070;

(o) Private duty nursing services – see WAC 388-86-071;

(p) Speech therapy, both the initial evaluation and subsequent therapy – see WAC 388-86-098;

(q) Total parenteral/enteral nutritional therapy.

(2) The division of medical assistance may approve where there are significant handicapping factors:

(a) The purchase of a hearing aid when the 50 decibel loss in the better ear is not met; or

(b) A second hearing aid and/or a replacement.

(3) On an exception basis approval may be granted, for services listed in this section, after the service(s) has been rendered.

AMENDATORY SECTION (Amending Order 2207, filed 2/14/85)

WAC 388-87-035 PAYMENT—TRANSPORTATION ((FOR MEDICAL REASONS)) (OTHER THAN AMBULANCE). (1) Payment for ((patient))

recipient transportation shall be made for ((eligible)) individuals ((according to)) eligible in accordance with WAC 388-86-085.

(2) ((Payment for patient)) When transportation ((services)) is provided as a medical service the following shall apply:

(a) Payment shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower. Except that, payment for ((patient)) recipient transportation provided by nonprofit organizations ((may)) shall be made on the basis of the operating costs incurred in providing that transportation but shall not exceed the rates established by the department.

((3)) (b) Methods of reimbursement and required billing procedures for ((patient)) recipient transportation services shall be published as necessary by the division of medical assistance.

((4)) (c) Providers of ((patient)) recipient transportation services must show medical justification on the billing document for the type of transportation utilized as well as the need for medical care.

((5)) Ambulances, air ambulances and commercial air transportation services shall be licensed, operated and equipped in accordance with applicable federal, state and local statutes, ordinances and regulations.

((6)) (d) Cabulances shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances and regulations.

((7)) (e) Taxi and bus transportation services shall be operated and equipped in accordance with state and local statutes, ordinances and regulations.

((8)) (f) Vehicles utilized by nonprofit organizations ((to provide)) seeking reimbursement for transportation services provided recipients shall be operated and equipped in accordance with minimum requirements established by the division of medical assistance and other applicable statutes, ordinances, and regulations.

(g) Commercial air transportation services shall be licensed, operated, and equipped in accordance with applicable federal, state, and local statutes, ordinances, and regulations.

(3) Payment for recipient transportation when provided as an administrative service shall be made according to the contracts between the department and the contractor.

NEW SECTION

WAC 388-87-036 PAYMENT—AMBULANCE SERVICES. (1) Payment for ambulance services provided eligible recipients shall be made according to WAC 388-86-086.

(2) Payment for ambulance services provided eligible recipients shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(3) Methods of reimbursement and required billings procedures for ambulance services provided eligible recipients shall be published as necessary by the division of medical assistance.

(4) Providers of ambulance services must show medical justification on billing document for transport and other services/supplies as well as the need for medical care.

(5) Ground and air ambulance shall be licensed, operated, and equipped in accordance with applicable federal, state, and local statutes, ordinances, and regulations.

**WSR 88-06-084
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2601—Filed March 2, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Aid to families with dependent children—Eligibility, amending chapter 388-24 WAC.

This action is taken pursuant to Notice No. WSR 88-01-125 filed with the code reviser on December 23, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 74.04 RCW which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 74.04.050.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 26, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-074 AID TO FAMILIES WITH DEPENDENT CHILDREN—EMPLOYABLE—DEPRIVATION DUE TO UNEMPLOYMENT OF A PARENT. Effective September 1, 1985, to be eligible for AFDC-E, an applicant shall be a child whose qualifying parent meets the requirements in this section.

(1) The qualifying parent ((is)) shall be that parent earning the greater amount of income in the last twenty-four-month period, the last month of which immediately precedes the month in which the application for assistance is filed.

(a) If the client and CSO cannot secure verification of earnings for this period, the CSO shall designate the qualifying parent using the best evidence available.

(b) The earnings of both parents ((are)) shall be considered in determining the qualifying parent, regardless of when the relationship began.

(c) The designated qualifying parent ((remains)) shall be the qualifying parent for each consecutive month the

family remains on assistance based on the current application.

(d) If both parents earned an identical amount of income, the CSO shall designate the qualifying parent.

(2) The child ((must)) shall be deprived of parental care and support because of the unemployment of a natural parent, adoptive parent, or stepparent who satisfies all the requirements in this section to qualify the assistance unit.

A parent or stepparent ((is)) shall be considered to be unemployed when:

(a) He or she is employed less than one hundred hours a month, or

(b) He or she exceeds that standard for a particular month if his or her work is intermittent and the excess is of a temporary nature as evidenced by the fact he or she was under the one hundred hour standard for the two prior months and is expected to be under the standard during the next month.

(3) The qualifying parent or stepparent ((must have been)) shall be unemployed as defined in subsection (2) of this section for at least thirty days prior to the date AFDC-E is authorized.

When AFDC-E is terminated due to full-time employment of the unemployed parent or stepparent, no additional waiting period is required if the full-time employment ends within thirty days of termination and the individual reapplys and is found otherwise eligible for AFDC-E.

(4) The qualifying parent or stepparent ((must)) shall not have refused a bona fide offer of employment or training for employment or ((has)) not voluntarily left a job without good cause during the same thirty-day period.

(5) The child ((must)) shall meet the eligibility conditions specified in WAC 388-24-040 and 388-24-090 through 388-24-125.

(6) The child's qualifying parent or stepparent:

(a) ((In WIN areas;)) Must be registered for the WIN program ((unless exempted by WAC 388-24-107)).

(b) If exempt from ((WIN registration)) OPPORTUNITIES participation due to remoteness, ((must)) shall be registered for employment with the local DES office.

((b) In non-WIN areas, must be registered for employment with the local DES office and for E&T unless exempted by WAC 388-24-107. If exempt from E&T registration due to remoteness, must still be registered for employment with the local DES office.))

(7) The qualifying parent or stepparent, if eligible for unemployment compensation, ((has)) shall not have refused to apply for or accept such compensation.

(8) The qualifying parent or stepparent:

(a) ((Has had)) Shall have six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the application for assistance. A "quarter of work" means a calendar quarter in which he or she earned income of not less than fifty dollars, or in which he or she participated in the work incentive (WIN) program or community work experience program (CWEP). A "calendar quarter" means a period of three

consecutive calendar months ending March 31st, June 30th, September 30th, or December 31st, or

(b) Within one year prior to his or her application received or would have been eligible to receive unemployment compensation had he or she applied; or if the employment which he or she had was not covered under the unemployment compensation law of the state or the United States, his or her work history was such that had his or her employment been covered, he or she would have been eligible.

(9) The child ((must)) shall be living with both natural parents, adoptive parents, or a parent and stepparent except that one may be temporarily absent for up to ninety days to search for employment with the expectation of continuing to live with the family. The absent parent ((must)) shall meet the requirements in WAC 388-24-107.

(10) AFDC ((will)) shall not be denied or terminated solely because of an individual's participation in institutional and work experience training or in public service employment under the ((WIN)) OPPORTUNITIES program.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-090 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—EMPLOYMENT OR TRAINING. ((Effective August 23, 1983.)) (1) All AFDC applicants and recipients ((are)) shall be subject to WIN ((or employment and training (E&T))) registration and OPPORTUNITIES participation as provided in WAC 388-24-107.

(2) A ((WIN/E&T)) WIN registrant, unless ((a)) an OPPORTUNITIES program volunteer participant, failing to cooperate in appraisal prior to certification shall be subject to the provisions of chapter 388-57 WAC ((388-57-056)).

(3)(a) An AFDC recipient, unless a volunteer, certified for the work incentive (WIN) program and determined by DES to have refused employment or training or participation in the WIN program without good cause shall be subject to provisions of chapter 388-57 WAC ((388-57-061)).

(b) An AFDC applicant or recipient, unless ((a)) an OPPORTUNITIES program volunteer participant, ((certified for the E&T program and)) determined by DSHS to have refused employment((, training,)) or participation in the ((E&T)) ESP or CWEP programs without good cause shall be subject to provisions of chapter 388-57 WAC ((388-57-061)).

(4) A child's eligibility ((is)) shall not be affected by the ((WIN/E&T registration)) OPPORTUNITIES program participation requirement for the parent or needy caretaker relative in the AFDC-R program. A child's eligibility ((is)) shall be affected by the ((WIN/E&T)) OPPORTUNITIES program participation requirement for the unemployed qualifying parent in the AFDC-E program.

(5) An individual determined ((to be)) exempt from ((registration for WIN/E&T)) participation in OPPORTUNITIES on the basis of documented incapacity

shall be referred to DVR. See also WAC 388-52-150 through 388-52-155.

AMENDATORY SECTION (Amending Order 2503, filed 6/1/87)

WAC 388-24-107. ELIGIBILITY CONDITIONS APPLICABLE TO AFDC-R AND AFDC-E—REGISTRATION AND PARTICIPATION IN EMPLOYMENT PROGRAMS. (1) ((Except as exempted in (2),) All AFDC applicants/recipients shall, as a condition of eligibility:

(a) Register for the ((Washington employment opportunities)) Work Incentive (WIN) program ((OPPORTUNITIES)). A person who requests or receives AFDC shall be considered registered in WIN for every person 16 through 64 years of age in the assistance unit. This shall include everyone who becomes 16 years of age while on AFDC; and

(b) Except as exempted in subsection (2) of this section, participate as required in the following programs under the OPPORTUNITIES program:

- (i) Work incentive program (WIN); and/or
- (ii) Employment search program (ESP); and/or
- (iii) Community work experience program (CWEP).

(2) The following AFDC applicants/recipients ((are)) shall be exempt from requirements in subsection ((1)) (b) of this section:

(a) A dependent child 16 years of age and under ((age sixteen)) or 16 years of age ((sixteen)) but not yet ((nineteen)) 19 years of age and is attending full time, or has been accepted for enrollment as a full-time student for the next school term, in an elementary or secondary school, or the equivalent level of vocational or technical training, and reasonably expected to complete such course prior to the end of the month he or she reaches ((nineteen)) 19 years of age;

(b) A person who is ill, incapacitated, or sixty-five years of age or older;

(i) Temporary illness or incapacity provides ((WIN/E&T)) exemption only for the period of a documented condition of unemployability. Exemption terminates when the condition ceases.

(ii) Persons determined to be exempt ((from registration)) on the basis of permanent incapacity shall be referred for services under the vocational rehabilitation program.

(c) A person residing outside ((a WIN/E&T)) an OPPORTUNITIES area or at a location so remote from ((a WIN/E&T project)) an OPPORTUNITIES office or service unit that his or her effective participation is precluded. A person is considered remote when a round trip of more than two hours would be required for a normal work or training day, unless normal round trip commuting time in the area is more than two hours. The round trip commuting time shall not exceed the generally accepted community standards. Available public or private transportation is used to compute transportation

time. The time necessary to transport children to and from a child care facility is not counted;

(d) A person whose presence in the home is required because of illness or incapacity of another member of the household;

(e) A parent or other needy caretaker relative of a child under the age of six who is:

(i) Personally providing full-time care for the child;

(ii) Absent from the child only very briefly and infrequently, i.e., averaging less than thirty hours per week; and

(iii) Not a full-time day student in a college, vocational school, or other post-secondary school;

(f) A person employed at least thirty hours per week;

(g) A woman in the third trimester of pregnancy;

(h) The parent of a child when the other parent or stepparent is in the home and is not exempted by sub-section ((1)) (2)(a), (b), (c), (d), (e), (f), or (g) of this section; or

(i) A full-time VISTA (volunteers in service to America) participant who was determined eligible for AFDC prior to becoming a VISTA volunteer.

((2)) (3) Any applicant or recipient ((has)) shall have a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until his or her status is finally determined. (See chapter 388-57 WAC ((388-57-090))).

((3)) (4) The requirements of any individual, other than the parent qualifying the assistance unit for AFDC-E, failing to ((register)) participate as required under subsection (1)(b) of this section shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance((, and)). Assistance ((with)) shall be granted to the eligible members of the assistance unit.

((4)) (5) An exempt parent caretaker of a child shall be advised of his or her option to ((register)) participate if he or she so desires, and of the fact child care ((with)) shall be provided if needed subject to available funding. Other exempted individuals may volunteer to ((register)) participate, subject to acceptance of such ((registration)) participation by ((DES)) the OPPORTUNITIES program.

((5)) When an AFDC recipient classified as exempt from WIN/E&T registration reports any change affecting the exempt status, he or she shall be registered within thirty days after the report. If a change is not reported, exempt or nonexempt status will be determined at the next review unless the department becomes aware an AFDC recipient's exempt status has changed. Then the recipient shall be notified he or she shall be registered within thirty days.))

(6) The department's financial service unit shall determine which AFDC applicants or recipients are exempt from ((registration)) OPPORTUNITIES program participation and which are required to ((register)) participate as a condition of eligibility.

WSR 88-06-085
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2602—Filed March 2, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to receivership, new WAC 388-96-771.

This action is taken pursuant to Notice No. WSR 88-03-053 filed with the code reviser on January 19, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 26, 1988.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-96-771 RECEIVERSHIP. (1) If the nursing home is providing care to recipients of state medical assistance, the receiver shall:

- (a) Become the Medicaid contractor for the duration of the receivership period;
- (b) Assume all reporting responsibilities for new contractors;
- (c) Assume all other responsibilities for new contractors set forth in this chapter; and
- (d) Be responsible for the refund of Medicaid rate payments in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

- (i) The return on investment, or
- (ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.

(b) Start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through return on investment, no additional monies will be added to the rate;

(c) Any other allowable costs as set forth in this chapter.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure from revenue generated by the facility which is not obligated to the operation of the facility.

(c) If the department has not fully recovered any emergency or transitional expenditure at the termination of receivership, the department may:

(i) File an action against the former licensee or owner to recover such expenditure; or

(ii) File a lien on the facility or on the proceeds of the sale of the facility.

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

(a) The range of compensation for nursing home managers;

(b) Experience and training of the receiver;

(c) The size, location, and current condition of the facility;

(d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the nursing home's Medicaid reimbursement as follows:

(a) The Medicaid reimbursement rate for the former owner or licensee shall be what it was prior to receivership, unless the former owner or licensee requests prospective rate revisions from the department as set forth in this chapter.

(b) The Medicaid reimbursement rate for licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.

WSR 88-06-086
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2603—Filed March 2, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to nursing home licensure program administration, amending chapter 388-98 WAC.

This action is taken pursuant to Notice No. WSR 88-03-054 filed with the code reviser on January 19, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 18.51 RCW which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 18.51.070.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 29, 1988.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-98-005 RECEIVERSHIP. (1) The department may file a petition in superior court of Thurston County, or in superior court of the county in which the nursing home is located, to establish receivership for a nursing home. The department shall allege in the petition one or more of the following conditions is present and the current operator has demonstrated an inability or unwillingness to take necessary corrective action:

(a) The nursing home is operating without a license; or

(b) The nursing home has not given the department 60 days written notice prior to its intended closure date and has not made arrangements within 30 days before closure for the orderly transfer of its residents; PROVIDED THAT, if the nursing home has given the department 60 days prior written notice, but the department has not acted with all deliberate speed to transfer the residents, no petition for receivership shall be filed for the nursing home's failure to make arrangements for transferring residents; or

(c) A condition exists in a nursing home which demonstrates an immediate and serious threat of harm to the health, security, safety, or welfare of the residents including, but not limited to abandonment of the nursing home by the owner or operator; or

(d) The nursing home demonstrates a persistent pattern or practice of noncompliance with the requirements of chapter 18.51, 74.42 RCW, or other statutes, or standards and regulations adopted by the department designed to safeguard the health, security, or welfare of residents such that the nursing home has demonstrated a repeated inability to maintain minimum patient care standards; or

(e) The nursing home repeatedly demonstrated a limited capacity to furnish an adequate level or quality of care.

(2) If the department files a petition under the conditions described in subsection (1) of this section, the department shall request the court to:

(a) Restrain the licensee from continued operation of the nursing home; and

(b) Order the licensee to be divested of all possession and control of the nursing home including, but not limited to, all patient care records, financial records, and other records necessary for the continued operation of the nursing home, during the time the receivership is in effect; and

(c) Grant the receiver the authority to temporarily relocate some or all of the residents:

(i) If the receiver determines the resident's health, security, or welfare is jeopardized;

(ii) During the time the receivership is in effect; and
(iii) If the department concurs with the receiver's determination relocation is necessary.

(3) The department is not required to file a petition for receivership when the physical condition of the premises is such that closure of the nursing home would be more prudent than continued operation.

NEW SECTION

WAC 388-98-010 LIST OF QUALIFIED RECEIVERS. (1) The department may recruit individuals, partnerships, and corporations interested in serving as a receiver of a nursing home. Recruitment may be in the form of personal letters, radio or television announcements, or advertisements in publications determined suitable by the department.

(2) Any individual, partnership, or corporation desiring to be a receiver shall complete the sections designated by the department of an application for a nursing home license.

(3) Any individual, partnership, or corporation with experience in providing long-term health care and a history of satisfactory operation of a nursing home may submit an application to the department at any time to serve as a receiver. Applicants shall be subject to the criteria established for licensees found in Washington Administrative Code 248-14-080, except the department may waive on a case-by-case basis the requirement for having 60 days to review the application.

(4) The department shall maintain a list of qualified potential receivers. The department shall add names of qualified applicants to the list upon receipt of an application properly completed by the applicant and approved by the department. The department shall update the list by July 1 of each year. Updating shall verify:

(a) Information on the application is still current; and

(b) The individual, partnership, or corporation remains interested in serving as a receiver.

(5) Individuals, partnerships, or corporations failing to update their application as requested by the department shall not be considered as potential receivers unless a new application is submitted to the department.

(6) The department shall not consider as a receiver any person, partnership, or corporation which:

(a) Is the licensee, administrator, or partner, officer, director, managing employee, or owner of five percent or more of the assets of the nursing home subject to receivership; or

(b) Is affiliated with the nursing home subject to receivership; or

(c) Has owned or operated a nursing home that has been ordered into receivership in any state; or

(d) Has owned or operated a nursing home against which decertification action or licensure suspension or revocation proceedings have been initiated or have been in effect within two years preceding the filing of the receivership petition.

(7) The department may recommend to the court a receiver from the list. In making the recommendation, any one or more of the following factors may be considered:

- (a) The potential receiver's willingness to serve as a receiver for the nursing home in question;
- (b) The amount and quality of the potential receiver's experience in long term care;
- (c) The quality of care, as determined by prior survey reports, provided under the potential receiver's supervision or management;
- (d) The potential receiver's prior performance as a receiver;
- (e) How soon the potential receiver would be available to act as a receiver;
- (f) The potential receiver's familiarity and past compliance with Washington state regulations applicable to nursing homes;
- (g) The potential receiver's economic potential and interest in operating the nursing home on a permanent basis;
- (h) Preference may be given to potential receivers expressing an interest in the permanent operation of the nursing home.

NEW SECTION

WAC 388-98-015 DUTIES AND POWERS OF RECEIVER. (1) The receiver shall protect the health, security, and welfare of the residents for the duration of the receivership. The receiver shall perform all acts reasonably necessary to ensure residents' needs are met. Such acts may include, but are not limited to:

- (a) Correcting deficiencies cited by the department;
- (b) Hiring, directing, managing, and discharging all consultants and employees for just cause, discharging the administrator of the nursing home, recognizing collective bargaining agreements, and settling labor disputes;
- (c) Receiving and expending in a prudent and businesslike manner all revenues and financial resources of the home, provided that priority shall be given to debts and expenditures directly related to providing care and meeting residents' needs;
- (d) Making necessary purchases, repairs, and replacements, provided that expenditures for purchases, repairs, or replacements in excess of five thousand dollars are approved by the court;
- (e) Entering into contracts necessary for the operation of the nursing home; PROVIDED That, any contracts extending beyond the period of receivership shall be approved by the court;
- (f) Preparing all reports required by the department;
- (g) Planning with residents and their guardians, family, or significant others, any required relocation;
- (h) Meeting regularly with staff, residents, and residents' families to inform them of plans for correcting the deficiencies, progress achieved in correction, plans for facility closure and relocation, or plans for continued operation of the nursing home including the identity of the permanent operator.
- (2) The receiver shall consult the court in cases of extraordinary or questionable debts incurred prior to the receiver's appointment and shall not have the power to close the home or sell any assets of the home without prior court approval.

(3) The receiver shall comply with all applicable state and federal laws and regulations. If the nursing home is certified and is providing care to medical assistance clients, the receiver shall become the Medicaid contractor for the duration of the receivership period.

(a) A receiver for a skilled or intermediate care nursing home shall be responsible for complying with the provisions of chapter 74.46 RCW and chapter 388-96 WAC.

(b) A receiver for an intermediate care facility for the mentally retarded (ICF/MR) shall be responsible for complying with the provisions of chapter 74.09 RCW and chapter 275-38 WAC.

(4) The receiver shall be responsible and liable only for the receiver's own gross negligence, intentional wrongdoing, or breach of fiduciary duty to either the residents of the nursing home or the current or former licensee or owner of the nursing home.

NEW SECTION

WAC 388-98-020 TERMINATION OF RECEIVERSHIP. (1) The department shall recommend to the court the receivership be terminated:

(a) After the end of the appointed term unless good cause is shown to continue the receivership. Good cause for continuing the receivership exists when:

(i) Returning the nursing home to its former operator would subject the residents to a threat to their health, safety, or welfare; and

(ii) A credible replacement operator has entered into an enforceable agreement to purchase or operate the nursing home by a date acceptable to the department, but has not yet taken possession or control; or

(b) When all residents have been transferred and the nursing home is closed; or

(c) When all deficiencies which threaten the health, safety, or welfare of the residents have been eliminated and the former operator or owner has agreed to conditions specified by the department regarding the continued operation of the facility; or

(d) When a new licensed operator or owner is available to assume control of the nursing home.

(2) The department shall recommend to the court that all residents be relocated and the nursing home closed when:

(a) Problems exist in the physical condition of the premises which cannot be corrected in an economically prudent manner; or

(b) The department determines the former operator or owner:

(i) Is unwilling or unable to manage the nursing home in a manner which ensures residents' health, safety, and welfare; and

(ii) Has not entered into an enforceable agreement to sell the nursing home within three months of the court's decision to grant receivership.

(3) The department may recommend to the court an alternate receiver be appointed:

(a) When the receiver is no longer willing to serve as a receiver; or

(b) If a receiver is not making acceptable progress in correcting the deficiencies in the nursing home.

WSR 88-06-087
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2604—Filed March 2, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to excluded resources, amending WAC 388-92-045 and 388-95-380.

This action is taken pursuant to Notice No. WSR 88-03-072 filed with the code reviser on January 20, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED February 29, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2204, filed 2/13/85)

WAC 388-92-045 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange ((an)) exempt resources. Exclude cash received from the sale of an exempt resource ((is excluded provided the total amount of cash)) to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion ((in excess of allowed resources shall be considered)) a nonexempt resource ((if the individual's eligibility continues without a break in certification)). In determining the value of resources ((of an individual and spouse, if any,)) the department shall exclude the following ((items shall be excluded up to the dollar limit, if any, as indicated)):

(1) ((The)) A home ((or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are reinvested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds.)):

(a) ((The)) A home ((of the individual must be the individual's principal place of residence in order to be an excluded resource)) is any shelter:

(i) In which the client(s) has ownership interest; and
(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

((i) Temporary)) (b) Absences from the home ((including absences from home for trips, visits, and hospitalizations do)) shall not ((offset)) affect the home exclusion. It continues to be the principal place of residence as long as:

(i) The individual intends to return home.

((iii) An absence of more than six months may indicate that the home no longer serves as the principal place of residence. See WAC 388-83-140 (4)(d).)

((iii) The home continues to be excluded if the individual intends to return and there is a likelihood that he/she will return.)

((iv) When an institutionalized individual intends to return home, a physician's evaluation of his/her ability to return at some future time to a home setting may be used as the basis of a temporary absence determination. The evidence must be conclusive before a determination can be made that the individual is unable to return home.)

((v) Transfer of a home during a temporary absence may constitute evidence that the individual no longer intends to return. Adequate consideration must be received and allocated to the individual's resources. See WAC 388-92-043, transfer of property at less than fair market value.)

((b) If)) Accept the client's statement of intent without challenge; or

((ii) The home is used by a spouse or dependent relative during the individual's absence((, it will continue to be considered the principal place of residence)). Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.)

((c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.)

(2) Household goods and personal effects.

(3) ((An)) Automobile(s):

((a) ((ts)) Totally ((excluded)) exclude one automobile regardless of its value if it is:

(i) Necessary for employment; or

(ii) Necessary for the individual's medical treatment; or

(iii) Modified for operation by, or transportation of, a handicapped person; or

((iv) Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.)

((b) ((ts excluded)) Exclude one automobile to the extent its current market value does not exceed (((\$4,500)) four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this ((subsection)) subdivision only if no automobile is excluded under ((subsection (3))) (a) of this ((section)) subsection;

((c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.)

((4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings,

equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(5) Nonbusiness property which is essential to the means of self-support. This shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) ((A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as (3) above:)) The exclusion may also include an additional automobile or other motor vehicle (truck, tractor, trailer, etc.) if the vehicle excluded under subsection (3) of this section cannot also fulfill the self support functions.

(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance ((owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that):)

(a) If the total face value of policies held by each individual is ((\\$1,500)) one thousand five hundred dollars or less((, in which case the cash surrender value is not evaluated)) the total cash surrender value shall be excluded.

(b) If the face value of policy(ies) held by each individual is over ((\\$1,500)) one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations.

(c) Term or burial insurance with no cash surrender value ((is not considered)) shall be excluded in determining total face value in (a) of this subsection.

(9) Restricted ownership: Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., ((is)) shall be excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional

months. Any such cash not so used within such time periods ((is)) shall be considered as an available resource.

(11) Burial spaces.

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and step-children; an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Burial funds ((set aside for burial expenses:)):

(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not ((to)) exceed ((\\$1,500)) one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion ((applies)) shall apply if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-92-050.

(c) Funds set aside for burial expenses must be ((kept separate from other resources not set aside for burial. If such funds are mixed with other resources not intended for burial, the exclusion will not apply to any portion of the funds and will be treated as nonexcluded resources)) separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The ((\\$1,500)) one thousand five hundred dollars exclusion ((must)) shall be reduced by: (i) The face value of insurance policies on the life of an individual owned by the individual or spouse if the ((cash surrender value of those)) policies ((has)) have been excluded as provided in subsection (8) of this section and (ii) amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) ((Burial funds used for other purposes. Funds or interest earned on funds and appreciation in the value of burial arrangements which have been excluded from resources because they are burial funds must be used solely for that purpose:)) If any excluded burial funds, interest or appreciated values set aside for burial expenses

are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) ((will)) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purpose.

(13) Other resources excluded by federal statute.

(14) Retroactive payments: Exclude retroactive SSI or OASDI payments ((are excluded)) from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion ((does)) shall not apply once the retroactive payment has been converted to any other form.

AMENDATORY SECTION (Amending Order 2204, filed 2/13/85)

WAC 388-95-380 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange ((an)) exempt resources. Exclude cash received from the sale of an exempt resource ((is excluded provided the total amount of cash)) to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion ((in excess of allowed resources shall be considered)) a nonexempt resource ((if the individual's eligibility continues without a break in certification)). In determining the value of resources ((of an individual and spouse, if any,)) the department shall exclude the following ((items shall be excluded up to the dollar limit, if any, as indicated)):

(1) ((The)) A home ((or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are reinvested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds.));

(a) ((The)) A home ((of the individual must be the individual's principal place of residence in order to be an excluded resource)) is any shelter:

(i) In which the client(s) has ownership interest; and

(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

((i) Temporary)) (b) Absences from the home ((including absences from home for trips, visits, and hospitalizations do)) shall not ((offset)) affect the home exclusion. It continues to be the principal place of residence as long as:

(i) The individual intends to return home(());

((ii) An absence of more than six months may indicate that the home no longer serves as the principal place of residence. See WAC 388-95-360 (4)(d).)

((iii) The home continues to be excluded if the individual intends to return and there is a likelihood that he/she will return.

((iv) When an institutionalized individual intends to return home, a physician's evaluation of his/her ability to return at some future time to a home setting may be used as the basis of a temporary absence determination. The evidence must be conclusive before a determination can be made that the individual is unable to return home.

((v) Transfer of a home during a temporary absence may constitute evidence that the individual no longer intends to return. Adequate consideration must be received and allocated to the individual's resources. See WAC 388-92-043, transfer of property at less than fair market value.

(b) If) Accept the client's statement of intent without challenge; or

((ii) The home is used by a spouse or dependent relative during the individual's absence((, it will continue to be considered the principal place of residence)). Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.

((c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.

(2) Household goods and personal effects.

(3) ((An)) Automobile(s):

(a) ((Is)) Totally ((excluded)) exclude one automobile regardless of its value if it is:

(i) Necessary for employment; or

(ii) Necessary for the individual's medical treatment; or

(iii) Modified for operation by, or transportation of, a handicapped person; or

(iv) Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.

((b) ((Is excluded)) Exclude one automobile to the extent its current market value does not exceed (((\$4,500))) four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this ((subsection)) subdivision only if no automobile is excluded under ((subsection (3)))(a) of this ((section)) subsection;

((c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall

not exceed six thousand dollars with a minimum annual rate of return of six percent.

(5) Nonbusiness property which is essential to the means of self-support. ((This shall include:

(a) ~~Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.~~

(b) ~~Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.~~

(c) ~~Tools, equipment, uniforms and similar items required by the individual's employer.~~

(d) ~~A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as in subsection (3) of this section.) See WAC 388-92-045(5).~~

(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance ((owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that)):

(a) If the total face value of policies held by each individual is (($\$1500$)) one thousand five hundred dollars or less((, in which case the cash surrender value is not evaluated.)) the total cash surrender value shall be excluded.

(b) If the face value of policy(ies) held by each individual is over (($\$1500$)) one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations.

(c) Term or burial insurance with no cash surrender value ((is)) shall not be considered in determining total face value in (a) of this subsection.

(9) Restricted ownership: Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., ((is)) shall be excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods ((is)) shall be considered as an available resource.

(11) Burial spaces.

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and step-children; an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Funds set aside for burial expenses.

(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not ((to)) exceed (($\$1,500$)) one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion ((applies)) shall apply if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-95-390.

(c) Funds set aside for burial expenses must be ((kept separate from other resources not set aside for burial. If such funds are mixed with other resources not intended for burial, the exclusion will not apply to any portion of the funds and will be treated as nonexcluded resources)) separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The (($\$1,500$)) one thousand five hundred dollar exclusion ((must)) shall be reduced by the face value of insurance policies on the life of an individual owned by the individual or spouse if the ((cash surrender value of those)) policies ((has)) have been excluded as provided in subsection (8) of this section and amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) ((Burial funds used for other purposes. Funds or interest earned on funds and appreciation in the value of burial arrangements which have been excluded from resources because they are burial funds must be used solely for that purpose.)) If any excluded burial funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance

benefits of the individual (or the individual and individual's spouse) ((will)) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purposes.

(13) Other resources excluded by federal statute.

(14) Retroactive payments: Exclude retroactive SSI or OASDI payments ((are excluded)) from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion ((does)) shall not apply once the retroactive payment has been converted to any other form.

WSR 88-06-088
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2605—Filed March 2, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to social services for families, children and adults, amending chapter 388-15 WAC.

This action is taken pursuant to Notice No. WSR 88-02-065 filed with the code reviser on January 6, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.08.090 which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 74.08.545.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED March 2, 1988.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1697, filed 8/28/81)

WAC 388-15-207 CHORE SERVICES FOR ADULTS—LEGAL BASIS—PURPOSE—GOALS.

(1) The legal basis for the chore services program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist eligible persons at risk of being placed in a residential care facility by providing allowable chore services tasks that will allow the eligible persons to remain in or return home whenever possible.

(3) The department shall limit goals for chore services for adults ((and families shall be limited)) to those specified in WAC 388-15-010 (1)(b), (c), and (d). Also see WAC 388-15-010(2).

AMENDATORY SECTION (Amending Order 2383, filed 5/30/86)

WAC 388-15-208 DEFINITIONS. (1) "Chore services" means services in performing light work and household and other personal tasks which eligible persons are unable to do for themselves because of frailty or handicapping conditions.

(2) "Contracted program" ((denotes)) means that method of hourly chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore service provider.

(3) "Individual provider program" ((denotes)) means that method of chore service delivery where the client employs and supervises the chore service provider. Payment is made to the client, who in turn pays the provider.

(4) "Attendant care" ((in the chore services program is)) means the service provided to eligible persons who were receiving attendant care services prior to April 1, 1988:

(a) Who need full-time care, and/or

(b) Require assistance that cannot be scheduled with personal care tasks, e.g., toileting, ambulation, wheelchair transfer, and/or

(c) Need protective supervision when it is dangerous for a person to be left alone. Protective supervision does not include responsibilities a legal guardian should assume. Attendant care is authorized a daily rate payment in the individual provider program.

(5) "Hourly care" ((in the chore services program is)) means the service provided to eligible persons needing assistance that can be scheduled with household and/or personal care tasks. ((A maximum of one hundred sixteen hours per month per client can be provided. Hourly services do not include attendant care.))

(6) "Own home" shall mean the individual's present or intended place of residence whether in a building rented or owned by the client or in the home of another person. Chore services are provided within the confines of the home property except for essential shopping, errands, and transportation necessary for the completion of authorized tasks.

(7) ((The)) "Client review questionnaire" ((is)) means an ((adult)) assessment form ((determining)) used to determine the amount and type of chore services to be provided. The form is used by department staff to identify, document, and score the allowable chore service needs of all eligible persons.

(8) The "CRQ authorization ceiling chart" means the chart that indicates the maximum number of hours that ((can)) may be authorized for a client's score.

(9) "Personal care" ((shall)) means such tasks as meal preparation, feeding, dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, ((and)) reminding to take medicines which a person would normally provide for himself or herself and are necessary to maintain a person in his or her own home. Sterile procedures and administering medications by injection are not authorized personal care tasks, unless the individual provider program provider is a licensed health practitioner or a member of the client's immediate family.

(10) "Shared living arrangement" ((occurs when)) means a situation where two or more adults share expenses and live together in ((his or her own)) a home of one of them with common facilities, such as living, cooking, and eating areas.

(11) ((Persons are)) "At risk of institutionalization" or "at risk of residential placement" ((if)) means that the ((three following)) applicant/recipient meets criteria ((are met: (a) In greatest social and economic need as evidenced by more than one of the following:

- (i) Financially eligible for chore services;
- (ii) Seventy-five years of age or older;
- (iii) Homebound;
- (iv) Chronic physical health problems;
- (v) Chronic mental health problems;
- (vi) Confused;
- (vii) Socially isolated;
- (viii) Living alone.

(b) Unable to perform one or more activities essential to daily living, and

(c) Informal support system will not meet all chore services needs)) outlined in WAC 388-15-209 (1)(c).

(12) "High risk of residential care placement" means that the applicant/client meets the criteria outlined in WAC 388-15-209 (1)(b).

(13) "Client" means an individual who is receiving chore services.

(14) "Resources" means all real or personal property owned by or available to an applicant at the time of application which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent.

(15) "Property that is owned or available" shall mean property over which the applicant has legal right of control.

(16) "Companionship" means being with a person in the client's own home for the purpose of preventing loneliness or to accompany the client outside the home for other than basic errands, medical appointments, or laundry.

(17) "Activities essential to daily living" means the tasks listed in the client review questionnaire.

AMENDATORY SECTION (Amending Order 2550, filed 10/26/87)

WAC 388-15-209 CHORE SERVICES—ELIGIBLE INDIVIDUALS. (1) Service eligibility. Adults eligible for chore services shall be:

(a) ((Chore services are for adults)) Eighteen years of age and over(:);

(b) ((Eligibility for chore services shall be determined through the completion and scoring of the client review questionnaire. Refer to WAC 388-15-212.)) At high risk of residential care placement as evidenced by the need of assistance with one or more personal care tasks defined in WAC 388-15-208(9) as determined by completion and scoring of the client review questionnaire (CRQ);

(c) ((Families may receive chore services when the client is the normal caretaker of the children and:

(i) Is in the home but unable to physically care for the children;

(ii) Is in the home and physically unable to perform the necessary household tasks; or

(iii) Is out of the home temporarily, as defined by the department; and

(iv) Children and family services confirms all possible resources have been explored and no one can or will provide the necessary care)) At risk of residential care placement and unable to perform one or more activities essential to daily living and are in social and economic need as evidenced by one or more of the following:

- (i) Seventy-five years of age or over;
- (ii) Homebound;
- (iii) Chronic physical health problems;
- (iv) Chronic mental health problems;
- (v) Confused;
- (vi) Socially isolated; and
- (vii) Living alone.

(d) Authorized the amount of chore services as determined by the CRQ;

(e) Authorized payment for a maximum of one hundred sixteen hours per month of task-related services listed in the CRQ;

(f) Authorized services only when their needs cannot be met by relatives, friends, nonprofit organizations, or other persons;

(g) Referred to the volunteer chore service program, prior to approval of services by department paid providers when aged sixty or over and eligible for five hours per month or less of services;

(h) Referred to the volunteer chore service program, when aged sixty or over, are not eligible for chore services because of income or need level, or are eligible for a reduced level of service because of income, where such program exists, for needed hours of service not provided by the department.

((t))) (i) The department ((paid)) shall pay for services ((shall be provided)) only ((to)) for persons whose chore service(s) needs cannot be met by relatives, friends, nonprofit organizations, or other persons.

(2) Financial eligibility.

(a) To be eligible to receive chore services, a person shall meet the financial eligibility requirements established by the department.

(b) ((For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.))

((c))) Determined to be at high risk or an adult ((or family)) at risk of being placed in a residential care facility is eligible to receive the level of hourly ((or attendant care)) chore services as determined by WAC 388-15-212 if he or she is a recipient of:

(i) Supplemental Security Income and/or state supplementation; or

(ii) Limited casualty program medical care as defined by RCW 74.09.010 at time of eligibility determination; or

(iii) Has gross ((family)) income, adjusted for family size, at or below thirty percent of the state median income.

((d))) (c) Adult protective service(s) clients determined to be at high risk or at risk of being placed in a residential care facility are eligible to receive chore services without regard to income or resources, if these services are an integral but subordinate part of the adult protective services plan. These services are limited to a maximum of ninety days during any twelve-month period.

((e))) (d) An adult ((or family)) with a gross ((family)) income over thirty percent of the state median income (SMI) and determined to be at high risk or at risk of being placed in a residential care facility ((is eligible to)) receives a reduced level of hours ((in the hourly chore services program or a reduced level of payment in the attendant care chore services program)). ((f)) The department shall determine the reduced level((, deduct)) by:

(i) Deducting one hour of chore services for each percentage point ((when)) by which the client's income exceeds thirty percent SMI((, Deduct)); and

(ii) Deducting an additional hour of service for each percentage point ((when)) by which the client's income exceeds fifty percent SMI. ((For attendant care, the department shall pay a reduced amount equivalent to the individual provider program hourly rate.))

((f)) The department shall attempt to obtain chore services from the volunteer chore services program, prior to approval of services by department paid providers, for individuals who are:

(i) At risk of being placed in a residential care facility;

(ii) Age sixty or over, and

(iii) Eligible for five hours per month or less of services.

((g)) The department shall refer to the volunteer chore services program individuals who are:

(i) At risk of being placed in a residential care facility;

(ii) Age sixty or over, and

(iii) Are not eligible for chore services because of income or need level, or

(iv) Are eligible for a reduced level of service because of income where such program exists for needed hours or services not provided by the department.))

((h))) (e) Clients or applicants shall not be eligible for chore services if the clients or applicants have resources in excess of ten thousand dollars for one person or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional

family member. ((Adult protective services clients receiving chore services as an integral but subordinate part of an adult protective services plan and Supplemental Security Income and/or state supplementation recipients are exempt from the resource requirement in this section. Resources mean all real or personal property owned by or available to an applicant at the time of application which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent. Property that is owned or available shall mean property over which the applicant has legal right of control.))

The department shall consider the following resources ((shall be considered)) in determining the value of a client's or applicant's resources:

(i) Checking accounts;

(ii) Savings accounts;

(iii) Certificates of deposit;

(iv) Money markets;

(v) Negotiable stocks and bonds;

(vi) Latest assessed value of lots or property not attached to residence;

(vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;

(viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature.

((f)) (f) The department shall not consider the following resources, regardless of value, ((shall not be considered)) in determining the value of a client's or applicant's resources:

(i) A home and lot normal for the community where the client or applicant resides;

(ii) Used and useful household furnishings, personal clothing, and one automobile per client;

(iii) Personal property of great sentimental value;

(iv) Real or personal property used by the applicant or ((recipient)) client to earn income or to rehabilitate himself or herself;

(v) One cemetery plot for each member of the family unit;

(vi) Cash surrender value of life insurance.

(3) Continuing eligibility for attendant care for adults and supervision of children.

(a) Attendant care for adults and supervision of children will no longer be authorized after March 31, 1988. Individuals applying on or after April 1, 1988, will be provided services based on eligibility as determined in WAC 388-15-209 (1) and (2).

(b) Clients receiving attendant care and supervision of children prior to April 1, 1988, shall continue to be eligible to receive services.

(c) Periodic review to determine continuing need for and/or eligibility shall be made according to the following rules which were in effect prior to April 1, 1988. These rules follow.

(d) Attendant care service is authorized for individuals receiving attendant care prior to April 1, 1988, and requires assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or protective supervision. Protective supervision is authorized when a person may hurt oneself, others, or damage property if

left alone, or is confused and may wander away, or becomes easily disoriented.

(i) The amount of service authorized is based on the total number of hours per day the chore service provider must be with a client.

(ii) The chore service provider performs necessary household or personal care tasks or assists with activities of daily living during the authorized attendant care hours.

(iii) Supervision of children may be authorized only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence shall not exceed two weeks during any six-month period. The number of days and the number of hours per day that the children need supervision is recorded. The chore service provider performs household and personal care tasks for the children during the hours of supervision.

(iv) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.

(e) A daily rate shall be paid for attendant care for adults and supervision of children. The rate shall not exceed the lesser of the following, a maximum of twenty-three dollars per day or the amount determined by the table as follows:

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 23.00
16 - 20	up to \$ 21.00
12 - 15	up to \$ 19.00
8 - 11	up to \$ 16.50
4 - 7	up to \$ 11.50
1 - 3	up to \$ 7.50

Up to five dollars per day is added for each additional client authorized for service in the household.

(i) The department shall pay a reduced amount equivalent to the individual provider program hourly rate.

(ii) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. If necessary, however, up to seven days during the service month may be provided to enable the client to return home.

(f) An attendant care client may request approval from the department to exceed the maximum daily rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client their own home when:

(i) The need for the higher payment is specific and clearly measurable; and

(ii) The client provides documentation that services are not available at the established maximum payment rate; and

(iii) The client has made a reasonable effort to find a qualified provider at the established maximum payment rate; and

(iv) The total cost for attendant care services does not exceed the lesser of the following, a maximum of thirty dollars per day, or the amount determined by the table as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY
21 - 24	up to \$7
16 - 20	up to \$6
12 - 15	up to \$5
8 - 11	up to \$4
4 - 7	up to \$3
1 - 3	up to \$2

(g) All clients shall be informed in writing of the process as defined in subsection (3)(f) of this section and shall have the right to request approval from the department to exceed the maximum daily rate.

(h) When the department denies a request to exceed the maximum payment rates or makes approval at a lesser rate than requested by the client, the client shall receive notice of the right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

(i) When providing board and room or meals for the chore service provider is an extra cost to the client, the department may make a payment to partially reimburse the cost of this expense. The department shall not reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(j) The department shall pay only after the department verifies service delivery.

(4) Continuing eligibility for family care services.

(a) Family care will no longer be authorized after March 31, 1988. Individuals applying on or after April 1, 1988, will be provided services based on eligibility as determined in WAC 388-15-209 (1) and (2).

(b) Clients receiving family care services prior to April 1, 1988, shall continue to be eligible to receive services at the authorized level.

(c) Periodic review to determine continuing need for and/or eligibility shall be made according to the following rules which were in effect prior to April 1, 1988.

(d) Families may receive services when the client is the normal caretaker of the children, and:

(i) Is in the home but unable to physically care for the children;

(ii) Is in the home and physically unable to perform the necessary household tasks; or

(iii) Is out of the home temporarily, as defined by the department; and

(iv) Children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.

(e) For families to receive services, the total family income shall be at or below the financial eligibility requirements established by the department. Minor children shall not be financially eligible in their own right. The minor children are part of the family unit.

(f) The family care questions take into consideration the ages, number, level of responsibility of the children,

and the presence of a spouse when determining the need for chore services.

(i) Family housework determines the need for additional help cleaning the household because of the presence of children.

(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.

(iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.

(iv) The total scoring for subsection (4)(f)(i), (ii), and (iii) are N = 0, M = 14, S = 27, and T = 40.

(g) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 2550, filed 10/26/87)

WAC 388-15-212 SERVICE DETERMINATIONS. (1) The department shall determine the need for and amount of chore services ((need and amount determination)) for all applicants and clients of chore services ((will be made by using)) according to the score on a client review questionnaire ((for each adult)) CRQ. The department shall use a separate CRQ for each adult.

(2) Department staff ((will)) shall administer the client review questionnaire.

(3) When administering the client review questionnaire, department staff ((will)) shall take into account the client's:

(i) Risk of being placed in a residential care facility ((and));

(ii) Ability to perform activities of daily living((,));

(iii) Living conditions((, and));

(iv) Arrangements((,)); and ((the))

(v) Availability and use of alternative resources, including immediate family, other relatives, neighbors, friends, community programs, and volunteers.

(4)((~~(a)~~)) The series of questions on the client review questionnaire ((is a series of questions designed to determine)) documents the client's need for assistance with the tasks available from the chore services program. ((In answering each question, either "N," "M," "S," or "T" is circled))

(a) The department shall base the scoring on the following to indicate the extent of assistance the client needs from the chore program for each task((. "N," "M," "S," or "T" are defined as)).

(i) N = ((None)) No service needed: The client is either able to perform this task without help or is already receiving or could receive all the help needed from other sources.

(ii) M = Minimal service needed: The client cannot perform this task without help and needs a minimal

amount of assistance from the chore services program in addition to whatever help may or may not be received from other sources.

(iii) S = Substantial service needed: The client cannot perform this task without help and needs a substantial amount of assistance from the chore services program in addition to whatever help may or may not be received from other sources.

(iv) T = Total service needed: Client is completely unable to perform this task and is not now receiving any help and needs total assistance from the chore services program.

(b) The department shall award points ((are awarded)) for each task based on the degree of assistance needed from the chore services program. The number of points available for each task is set forth in subsection (5) of this section. The point total is converted into maximum allowable hours using the table set forth in subsection (6) of this section. ((For clients needing attendant care, as defined in subsection (5) of this section, the amount of services authorized is based on the total number of hours per day the chore service provider must be with the client.))

(5) The department shall score the allowable chore services program tasks, as defined by the department, ((are scored)) according to the need and frequency of services as follows:

(a) Escort/transport to medical services((. The scoring is as follows, based on the need and frequency of service)): N = 0, M = 1, S = 2, T = 3.

(b) Essential shopping and errands((. The scoring is based on need and frequency of service)): N = 0, M = 5, S = 10, T = 15. When the chore service provider must perform these tasks for the client because the client is unable to go along((, the scoring is)): N = 0, M = 1, S = 3, and T = 5.

(c) Laundry((. The scoring is)): N = 0, M = 1, S = 2, and T = 3. If there are no laundry facilities in the client's own home, the department shall award additional points ((are awarded. The scoring for the additional points is)): N = 0, M = 3, S = 5, and T = 7.

(d) Splitting/stacking/carrying wood((. The scoring is)): N = 0, M = 3, S = 5, and T = 7. Service to perform this task is available only to persons who use wood as their sole source of fuel for heat and/or cooking.

(e) Housework. Housework is limited to tasks necessary to protect the client's health and safety and to those areas of the home actually used by the client, i.e., kitchen, bathroom, bedroom, living room, and dining room((. The scoring is)): N = 0, M = 1, S = 2, and T = 3.

(f) Cooking. ((The)) Scoring is based on the preparation of three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light meal N = 0, M = 4, S = 7, T = 10.

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(g) Feeding. ((The)) Scoring is based on feeding three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light meal N = 0, M = 4, S = 7, T = 10.

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(h) Dressing/undressing((. The scoring is)): N = 0, M = 4, S = 7, and T = 10.

- (i) Care of appearance((. The scoring is)): N = 0, M = 1, S = 3, and T = 5.
- (j) Body care((. The scoring is)): N = 0, M = 5, S = 10, and T = 15.
- (k) Bed transfer((. The scoring is)): N = 0, M = 1, S = 3, and T = 5.
- (l) Ambulation((. The scoring is)): N = 0, M = 4, S = 7, and T = 10.
- (m) Wheelchair transfer((. The scoring is)): N = 0, M = 1, S = 3, and T = 5.
- (n) Bathing((. The scoring is)): N = 0, M = 4, S = 7, and T = 10.
- (o) Toileting((. The scoring is)): N = 0, M = 5, S = 10, and T = 15.
- (p) Remind to take medicines((. The scoring for reminding to take medication is)): N = 0, M = 1, S = 2, and T = 3.
- ((q) Family care. The family care question takes into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services:
- (i) Family housework determines the need for additional help cleaning the household because of the presence of children.
 - (ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.
 - (iii) Supervision of children determines the need for physical supervision of the children when the client is in the home, but unable to supervise them.
 - (iv) The total scoring for the above are N = 0, M = 14, S = 27, and T = 40.
- (r) Attendant care for adults/supervision of children:
- (i) Attendant care for adults is authorized when the client requires assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or supervises or watches a client who cannot safely be left alone. Protective supervision may be necessary when a person may hurt himself or herself, others, or damage property if left alone, or is confused and may wander away, turn on a stove and forget to turn it off, or becomes easily disoriented. The chore service provider performs any household or personal care tasks or gives assistance with activities of daily living during the authorized attendant care hours. The scoring and authorization are based on the number of days per month and hours per day during which the chore service provider must be with a client in need of attendant care. The client or applicant shall provide verification of the need for attendant care by producing a statement from the client's or applicant's physician.
- (ii) Supervision of children may be authorized only when the client is temporarily absent from the home because of hospitalization and all possible resources have been explored to provide the necessary supervision. This absence must not exceed two weeks during any six-month period. Refer to WAC 388-15-209 (1)(c)(iv). This question is not scored. The number of days and the number of hours per day that the children need supervision is recorded. Authorization is based on the total number of hours required each day for supervision. The

chore service provider performs household and personal care tasks for the children during the hours of supervision.))

(6) ((Except for cases where attendant care for adults or supervision of children when the client is temporarily absent is required, as defined in subsection (5)(r) of this section,)) The ((amount)) department shall determine the number of hours of chore services to be authorized per month shall be determined by translating the total number of points awarded on the client review questionnaire into a monthly authorization, ((utilizing)) using the following CRQ authorization ceiling chart:

CRQ SCORE	CEILING HOURS PER MONTH
1 – 4	5
5 – 9	8
10 – 14	11
15 – 19	14
20 – 24	18
25 – 29	21
30 – 34	24
35 – 39	28
40 – 44	31
45 – 49	34
50 – 54	37
55 – 59	41
60 – 64	44
65 – 69	47
70 – 74	51
75 – 79	54
80 – 84	57
85 – 89	60
90 – 94	64
95 – 99	67
100 – 104	70
105 – 109	74
110 – 114	77
115 – 119	80
120 – 124	83
125 – 129	87
130 – 134	90
135 – 139	93
140 – 144	97
145 – 149	100
150 – 154	103
155 – 159	106
160 – 164	110
165 – 169	113
170 and above	116

The department may authorize fewer hours according to the client's individual circumstances and the provisions under WAC ((388-15-215(8))) 388-15-215(7). ((Attendant care for adults and supervision of children when the client is temporarily absent are authorized for the number of days per month and hours per day the services are required.))

(7) The client or applicant may request approval from the department to exceed the ceiling hours authorized per month, as determined in subsection (6) of this section. The department shall authorize the number of additional hours not to exceed one hundred sixteen hours per month per client in the hourly program when:

(a) There are circumstances of a demonstrated duration, frequency, or severity which require additional hours of allowable chore services to avoid adverse effects to ((his or her)) the client's health or safety; and

(b) The need for additional hours is specific and clearly measurable(():); and

(c) Funds are available under provisions of WAC ((388-15-215(11))) 388-15-214.

(8) The department shall inform all clients or applicants ((shall be informed)) in writing of the process as defined in subsection (7) of this section and shall have the right to request from the department approval to exceed the authorized hours as set forth in subsection (6) of this section.

(9) When the department denies a request for additional hours or ((makes approval for)) approves fewer additional hours than requested, the department shall send the client or applicant ((shall receive)) a notice of ((his or her)) the right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

(10) The department may provide chore services ((may be provided either)) through the individual provider program or through the contracted program, as deemed most appropriate by department policy established by the state office.

AMENDATORY SECTION (Amending Order 2550, filed 10/26/87)

WAC 388-15-213 PAYMENT. (1) ((Payment)) The department may ((be made)) pay for services performed by a relative, but ((payment to)) may pay a spouse, father, mother, son, or daughter may be made only when the ((person)) relative:

(a) Has to give up paid employment (more than thirty hours per week) to give the service, or

(b) Would otherwise need to take paid employment (more than thirty hours per week) to meet the relative's financial needs, or

(c) Would otherwise be financially eligible to receive general assistance to meet ((his or her)) the relative's own need.

(2) ((Payment to)) The department shall not pay a spouse providing chore services to an incapacitated, eligible client ((shall not exceed)) more than the amount of a one-person standard for a continuing general assistance grant plus increase required by the legislature. Refer to WAC 388-29-100 for grant standards.

(3) In the contracted program, ((payment is made to)) the department pays the contractor who directly pays the chore service provider. Refer to WAC 388-15-208.

(4) In the individual provider program, ((payment is made to)) the department pays the client who pays the chore service provider. Refer to WAC 388-15-208.

(a) The department pays an hourly wage ((is paid)) for the actual number of hours worked on all chore service(s) tasks (((maximum of one hundred sixteen hours per month per client), except for attendant care for adults and supervision of children when the client is temporarily absent)). The hourly wage rate shall be four dollars and seventy-six cents per hour beginning September 1, 1987.

(b) ((A daily rate is paid for attendant care for adults and supervision of children. The daily rate is determined by the service worker after discussion with the client and chore service provider, but the rate shall not exceed the lesser of the following, a maximum of twenty-three dollars per day or the amount determined by the table as follows:

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 23.00
16 - 20	up to \$ 21.00
12 - 15	up to \$ 19.00
8 - 11	up to \$ 16.50
4 - 7	up to \$ 11.50
1 - 3	up to \$ 7.50

Up to five dollars per day is added for each additional client authorized for service in the household.

(c) An individual provider program eligible client or applicant may request approval from the department to exceed the maximum daily rate set by the department. The department shall authorize a higher payment rate necessary to maintain the client or applicant in his or her own home when:

(i) The need for the higher payment is specific and clearly measurable, and

(ii) The client or applicant provides documentation that services are not available at the established maximum payment rate, and

(iii) The client or applicant has made a reasonable effort to find a qualified provider at the established maximum payment rate, and

(iv) The total cost for attendant care services does not exceed the lesser of the following, a maximum of thirty dollars per day, or the amount determined by the table in subsection (4)(b) of this section as follows:

HOURS OF SERVICE PER DAY	ADDITIONAL PAYMENT PER DAY
21 - 24	up to \$7
16 - 20	up to \$6
12 - 15	up to \$5
8 - 11	up to \$4
4 - 7	up to \$3
1 - 3	up to \$2

(d) All clients or applicants shall be informed in writing of the process as defined in subsection (4)(c) of this section and shall have the right to request approval from the department to exceed the maximum daily or hourly rate.

(e) When the department denies a request to exceed the maximum payment rates or makes approval at a lesser rate than requested by the client or applicant, the client or applicant shall receive notice of his or her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

((f))) When ((the client provides board and room or)) providing meals ((to)) for the chore service provider is an additional cost to the client, the department may make a payment to partially reimburse the cost of this expense. ((Payment is)) The department shall not ((made)) reimburse such costs for a spouse provider. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(g) ((Payment is made)) The department shall pay only after the department verifies service delivery ((has been verified)).

NEW SECTION

WAC 388-15-214 CHORE SERVICES
MONTHLY DOLLAR LID. A monthly dollar lid is the level established by the department to keep within the amount appropriated by the legislature.

(1) The department shall establish a statewide monthly dollar lid based on the budget appropriation. The department shall impose this monthly dollar lid statewide, based on expenditure projections.

(2) When expenditure projections reach the monthly dollar lid, the department shall place names of applicants for chore services on a waiting list in the order of their risk of residential placement.

(3) The department shall admit all those at high risk, as defined in WAC 388-15-208(12), to the program before those at risk of residential care placement, as defined in WAC 388-15-208(11).

(4) When the projected chore service monthly expenditures fall below the monthly lid, the department will contact applicants on the waiting list in the following priority order:

(a) Level A. Applicants at high risk of residential care placement needing help with any one of the following personal care tasks:

- (i) Feeding,
- (ii) Body care,
- (iii) Bed transfer,
- (iv) Wheelchair transfer, or
- (v) Toileting.

(b) Level B. Applicants at high risk of residential care placement needing help with four to six other personal care tasks;

(c) Level C. Applicants at high risk of residential care placement needing help with one to three other personal care tasks;

(d) Level D. Applicants at risk of residential care placement needing help with five household tasks;

(e) Level E. Applicants at risk of residential care placement needing help with three or four household tasks; and

(f) Level F. Applicants at risk of residential care placement needing help with one or two household tasks.

WSR 88-06-089

PROPOSED RULES

HIGHER EDUCATION COORDINATING BOARD

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Coordinating Board intends to adopt, amend, or repeal rules concerning state need grant program, WAC 250-20-021 and 250-20-031;

that the agency will at 9:30 a.m., Friday, April 8, 1988, in the Conference Room, Higher Education Coordinating Board, 908 East 5th, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 13, 1988.

The authority under which these rules are proposed is RCW 28B.10.806.

The specific statute these rules are intended to implement is RCW 28B.10.806.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1988.

Dated: March 2, 1988

By: A. Robert Thoeny
Executive Director

STATEMENT OF PURPOSE

Title: Amendment modifying the state need grant program rules.

Description of Purpose: This statement of purpose is intended to accompany the notice of intention to adopt, amend, or repeal rules, Form CR-1, filed by the Higher Education Coordinating Board.

Statutory Authority: RCW 28B.10.806.

Specific Statute Rule is Intended to Implement: RCW 28B.10.806.

Summary of Rule: Changes the definition of an independent student for the purpose of identifying when a parental contribution should be expected in calculating student eligibility; and modifies budget construction provisions in line with the expectations of congressional methodology.

Reasons Supporting Proposed Action: Provides a consistent interface between state and federal aid programs in determining student aid eligibility. The amendment essentially adopts the federal definition of independence as it is found in the 1986 federal reauthorization of the Higher Education Act. This change reduces the complexity of program administration while improving institutional stewardship of eligibility and improving student understanding of eligibility criteria.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Shirley A. Ort, Higher Education Coordinating Board, 908 East Fifth, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Higher Education Coordinating Board, governmental agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 2-87, filed 7/29/87)

WAC 250-20-021 PROGRAM DEFINITIONS. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "disadvantaged student" shall mean a post-high school student who by reason of adverse cultural, educational, environmental, experiential or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Association of Independent Colleges and Schools, the Cosmetology Accrediting Commission, or the National Association of Trade and Technical Schools, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student ((whose parents (including step-parent(s)) do not acknowledge and accept a financial responsibility for the student and have on record in the financial aid office documentation attesting to requirements for independence. Such requirements include the following criteria:

(a) The student has not and will not be claimed as an exemption for federal income tax purposes by any person except his or her spouse for the calendar year(s) in which a state need grant is received and the prior calendar year.

(b) The student has not received and will not receive financial assistance of more than \$750 in cash or kind from his or her parent(s) in the calendar year(s) in which a state need grant is received and the prior calendar year.

(c) The student has not lived and will not live in the home of his or her parent(s) except during occasional temporary visits during the calendar year(s) in which the need grant is received and the prior calendar year.

(d) A special category of independent students consists of persons emancipated or independent by circumstances beyond their control. Examples are wards of court and orphans. An affidavit describing such circumstances is required in lieu of documentation of the family financial situation. Students in this category will be treated as independent applicants with a \$0 parental income and contribution.

(e) Married students will be considered as dependent or independent as appropriate:)) who has either:

(a) reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(b) is a veteran of the U.S. Armed Forces; or,

(c) is an orphan or ward of the court; or,

(d) has legal dependents other than a spouse; or,

(e) is a married student or a graduate/professional student and will not be claimed by parents as a U.S. income tax exemption in 1988; or,

(f) was not claimed by parents as a U.S. income tax exemption in either 1986 or 1987 and had a total income and benefits for those two years equal to or greater than \$4,000.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Budgetary cost" shall consist of that amount required to support an individual as a student for nine months((, taking)) and may take into consideration cost factors for maintaining the student's dependents. The higher education coordinating board will annually review and adjust budgets which will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses and any other factors deemed necessary for consideration. The adopted budgets will be published concurrent with annual guidelines for program administration.

(9) "Total family contribution" for dependent students ((and students who have been independent from their parents for less than three years)) shall mean the sum of the assumed parents' contribution, contribution from student assets, and additional student resources. For ((students who have been)) independent ((for three years or longer)) students, "total family contribution" shall mean the sum of contribution from students' assets, and additional student resources.

(10) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.

(11) "Student assets" are comprised of those funds other than the student's expected summer savings and additional student resources as defined in WAC 250-20-021(13) to meet his or her educational expenses which were generated primarily through the student's own efforts. Examples of student assets are money in a savings account or in a trust fund.

(12) "Additional student resources" consist of those funds made available to the student primarily because of his or her student status such as G.I. Bill or veterans benefits. They also include financial support such as public assistance benefits, vocational rehabilitation funds, CETA funds, spouses' academic year income, those portions of agency funds designated for expenses other than tuition and fees, etc.

Funds administered by the institution, Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, and student employment are to be used as matching funds and as such are not included as "additional student resources."

(13) "State Need Index" is the difference between the appropriate ranking factor as identified in the following table and the student's total family contribution. Ranking factors: Students living with parents - 1970; single students living away from parents - 2770; married couple, one student - 4065; single parent with one child - 5565; Married couple, both students - 5540. An additional 1000 may be added for the first dependent and 800 added for each subsequent dependent.

(14) "Academic year" is that nine-month period of time from September to June during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(15) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 2-87, filed 7/29/87)

WAC 250-20-031 APPLICATION PROCEDURE. (1) Application for a state grant must be made each year.

(2) All applications will be ranked anew each year.

(3) Application for a state need grant is accomplished through a student's application for admission to, and financial aid from, the institution of his or her choice, and nomination to the board by that institution.

(4) Financial data must be generated in accordance with the method set forth by the higher education coordinating board to assure that information will be consistent on a state-wide basis.

(5) Student nominations will be transmitted by participating institutions to the board on forms designed and/or utilized and distributed by the board.

(6) A financial aid form or comparable financial status documents, and resulting financial need analysis must be on record in the financial aid offices for all nominations submitted to the board.

(7) ((Students who have met the criteria for independence and who are being considered for state need grant receipt without parent data

must demonstrate a history of financial need as documented by records on file in the institutional financial aid office of earnings and liabilities for the year immediately preceding enrollment.

((8))) The board shall establish annual application deadlines.

((((9))) Unless institutions are notified otherwise by the board, nominations on all eligible state need grant recipients should be submitted throughout the academic year in progress.

((((10))) Grants made subsequent to the fall term awarding cycle will be funded from moneys made available from unexpended grant funds.

((((11))) The financial aid officer at each institution will be required to sign a statement attesting to the fact that all eligible financial aid applicants within state need grant parameters will be nominated and that financial information will be determined in strict adherence to program guidelines.

WSR 88-06-090

PROPOSED RULES

HIGHER EDUCATION COORDINATING BOARD

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Coordinating Board intends to adopt, amend, or repeal rules concerning state work study program, WAC 250-40-030, 250-40-040 and 250-40-050;

that the agency will at 9:30 a.m., Friday, April 8, 1988, in the Conference Room, Higher Education Coordinating Board, 908 East 5th, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 13, 1988.

The authority under which these rules are proposed is RCW 28B.12.060.

The specific statute these rules are intended to implement is RCW 28B.12.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1988.

Dated: March 2, 1988
By: A. Robert Thoeny
Executive Director

STATEMENT OF PURPOSE

Title: Amendment modifying the state work study program rules.

Description of Purpose: This statement of purpose is written in compliance with section 23, chapter 186, Laws of 1980, and to accompany the notice of intention to adopt, amend, or repeal rules, CR-1, filed by the Higher Education Coordinating Board.

Statutory Authority: RCW 28B.12.060.

Specific Statute Rule is Intended to Implement: RCW 28B.12.060.

Summary of Rule: Adopts congressional methodology as the formula by which student need and consequent program eligibility is determined; and modifies budget construction and overaward provisions in line with expectations of congressional methodology.

Reasons Supporting Proposed Action: Provides for a consistent interface between federal and state program eligibility rules. It reduces complexity for both program

administrators and students while improving institutional stewardship of funds.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Shirley A. Ort, Associate Director, Higher Education Coordinating Board, 908 East Fifth, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Higher Education Coordinating Board, governmental agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 1-87, filed 7/29/87)

WAC 250-40-030 DEFINITIONS. (1) "Financial need" shall be the difference between the budgetary cost to the student attending an institution of postsecondary education and the total applicant resources which the institutional financial aid officer determines can reasonably be expected to be available to the student for meeting such costs.

(2) "Budgetary cost" of attending an institution shall consist of that amount required to support the individual and may include the costs of his or her dependents during the period in which that individual is enrolled as a student. Budgets will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses, and any other cost factors deemed necessary for consideration, consistent with WAC 250-40-040 (2)(a).

(3) "Total applicant resources" for the dependent student shall mean the sum of the amounts which reasonably may be expected from the student and his or her spouse inclusive of expected summer savings to meet the student's cost of education, and the amount which reasonably may be expected to be made available to the student by his or her parents for such purpose. For the self-supporting student total applicant resources shall mean the amount which reasonably may be expected from the student and his or her spouse inclusive of expected summer savings to meet the student's cost of education.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 – 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Eligible institution of postsecondary education" shall mean any postsecondary educational institution in the state of Washington accredited by the Northwest Association of Secondary and Higher Schools, or any public vocational-technical institute in the state of Washington.

(6) "Eligible employer" shall be defined as any eligible public institution of postsecondary education, any other nonprofit organization which is nonsectarian, or any profit-making nonsectarian employer producing a good or providing a service for sale or resale to others, can and agrees to provide employment of a demonstrable benefit related to the student's postsecondary educational pursuits and which conducts business within the state of Washington, or any other employer approved by the higher education coordinating board. In approving an employer as eligible, the board or an institution acting as its agent will consider at the minimum.

(a) The relationship of the jobs to the students' educational objectives;

(b) The potential for displacement of regular employees;

(c) The rate of pay as compared to salaries and wages provided other employees engaged in similar work;

(d) The employer's compliance with appropriate federal and state civil rights laws.

(7) "Dependent student" shall mean any post-high school student attending an eligible institution of postsecondary education who does not qualify as a self-supporting student in accordance with subsection (8) of this section.

(8) "Self-supporting student" shall be one who has established a bona fide independent relationship and who demonstrates compliance with criteria for determining self-supporting status as contained in the program guidelines.

(9) "Half-time student" means any student enrolled in exactly one-half the credit hour or clock hour load defined by the institution as constituting expected full time progress toward the particular degree or certificate.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1-87, filed 7/29/87)

WAC 250-40-040 STUDENT ELIGIBILITY AND SELECTION

(1) Eligibility criteria. In order to be eligible for employment under this program the student must:

(a) Demonstrate financial need.

(b) Be enrolled or accepted for enrollment as at least a half-time undergraduate, graduate or professional student or be a student under an established program designed to qualify him or her for enrollment as at least a half-time student at an eligible institution of postsecondary education.

(c) Be capable, in the opinion of the institution, of maintaining good standing in a course of study while employed under the program, and demonstrate satisfactory progress toward degree or certificate completion.

(d) Not be pursuing a degree in theology.

(2) Criteria for institutional determination of financial need and the making of awards.

(a) Budgetary costs will be determined by the institution subject to approval by the higher education coordinating board. The advisory committee authorized by WAC 250-40-070(4) of these regulations will review each budget for reasonableness and make recommendations to the board for approval or disapproval.

(b) Total applicant resources shall be determined according to the ((uniform methodology)) congressional methodology system of need analysis. Institutional financial aid officers may make reasonable adjustments to the computed total applicant resources if individual circumstances warrant such adjustments. In addition, nonliquid assets in the form of equity in the primary resident and net worth of business or farm may be disregarded in the computation of total applicant resources.

Any adjustments must be documented and placed in the student's financial aid file.

(c) The work-study award shall be designed in such a manner that the sum total of financial aid awarded any one student will not exceed the difference between the total applicant's resources and the budgetary cost of education. In the case of students attending participating private institutions, the sum of the state share of the state work-study wages and a state need grant, if awarded, may not exceed the non tuition and required fee portion of the student's budgetary cost.

(d) Each institution must have a policy relating to the continuance of aid for students who enroll in but do not complete the number of credit or clock hours required to maintain satisfactory progress toward completion of his or her degree or program objective. The institution must submit its policy to the board annually for approval. The advisory committee authorized by WAC 250-40-070(4) will make recommendations to the board for approval or disapproval of each institution's policy.

(3) Priorities in placing students.

(a) The institution must, wherever possible, place students in positions which are related to their educational goals or career interests. At the time of job placement, the student who is able to obtain course- or career objective-related employment shall be awarded in favor of one who is not able to obtain such employment.

(b) At the time of job placement, and after consideration of (a) above, no eligible Washington resident shall be excluded in favor of a nonresident.

(c) It is the intent of the work study program to assist those students from moderate income family backgrounds whose total applicant resources are insufficient to cover the total budgetary costs of education; and who, but for this program, would normally be forced to rely heavily on loans.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 1-87, filed 7/29/87)

WAC 250-40-050 RESTRICTIONS ON STUDENT PLACEMENT AND COMPENSATION

(1) Displacement of employees. Employment of state work-study students may not result in displacement of employed workers or impair existing contracts for services.

(a) State work-study students employed by public institutions of postsecondary education may not fill positions currently or formerly occupied by classified employees.

(b) In cases of governmental employment, state work-study students may fill positions which have been previously occupied but were vacated as a result of implementing previously adopted reduction in force policies in response to employment limitations imposed by federal, state or local governments.

(c) In all other cases, state work-study students may not fill positions which have been occupied by regular employees during the current or prior calendar or fiscal year.

(2) Rate of compensation. All work-study positions shall receive compensation equal to the entry level salary of comparable positions.

Students employed by public postsecondary educational institutions who are filling positions which are comparable to Higher Education Personnel Board classified positions must be paid entry level Higher Education Personnel Board wages for the position.

Determination of comparability must be made in accordance with State Work Study program operational guidelines.

Documentation must be on file at the institution for each position filled by a State Work Study student which is deemed by the institution as not comparable to a Higher Education Personnel Board position.

(3) Maximum total compensation. Earnings beyond the student's state work-study eligibility must be reported to the financial aid officer, and resulting adjustments made in the financial aid package in accordance with congressional methodology. In the event that a student earns more money from employment than the institution anticipated when it awarded student financial aid, the excess is to be treated in accordance with the method specified in the state work-study operational guidelines.

(4) State share of student compensation. The state share of compensation paid students shall not exceed 80 percent of the student's gross compensation in the following cases: (a) when employed by state supported institutions of postsecondary education at which they are enrolled, (b) when employed as tutors by the state's common school districts which have entered into a special agreement with the Higher Education Coordinating Board for placement of students in an authorized program providing tutorial assistance, and (c) when employed in tutorial or other support staff positions by non-profit adult literacy service providers in the state of Washington who meet guideline criteria for participation in the 1985-87 Adult Literacy Pilot Program. The state share of compensation paid students employed by all other employers shall not exceed 65 percent of the student's gross compensation.

(5) Employer share of student compensation. The employer shall pay a minimum of 20 percent or 35 percent of the student's gross compensation as specified in subsection (4) above, plus the costs of any employee benefits including all payments due as an employer's contribution under the state workman's compensation laws, federal Social Security laws, and other applicable laws. The federally-funded college work-study program cannot be used to provide employer share of student compensation except when used for placement of students in tutorial or other support staff positions with adult literacy service providers in the state of Washington who meet guideline criteria for participation in the 1985-87 Adult Literacy Pilot Program.

(6) Academic credit for state work-study employment. Students may receive academic credit for experience gained through state work-study employment.

(7) Maximum hours worked. Employment of a student in excess of an average of 19 hours per week over the period of enrollment for which the student has received an award or maximum of 40 hours per week during vacation periods will not be eligible for reimbursement from state funds.

A student may not be concurrently employed in the same position by the State Work-Study Program and the federal college work-study program and exceed the 19 hours per week average.

Further, the student cannot accept other on-campus employment which results in a waiver of the non-resident tuition and fees differential under RCW 28B.15.014.

(8) Types of work prohibited. Work performed by a student under the State Work-Study Program shall not be sectarian related and shall not involve any partisan or nonpartisan political activity.

(9) Relationship to formula staffing percentage. Placement of state work-study students in on-campus positions at public postsecondary educational institutions may not result in a level of employment in any budget program in excess of a formula staffing percentage specifically mandated by the legislature.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 88-06-091

PROPOSED RULES

HIGHER EDUCATION COORDINATING BOARD

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Coordinating Board intends to adopt, amend, or repeal rules concerning mathematics/science teacher incentive loan program, WAC 250-60-020, 250-60-030, 250-60-040, 250-60-050, 250-60-060, 250-60-070, 250-60-080, 250-60-090, 250-60-100, 250-60-110 and 250-60-120;

that the agency will at 9:30 a.m., Friday, April 8, 1988, in the Conference Room, Higher Education Coordinating Board, 908 East 5th, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 13, 1988.

The authority under which these rules are proposed is RCW 28B.15.760.

The specific statute these rules are intended to implement is RCW 28B.15.760.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 7, 1988.

Dated: March 2, 1988
By: A. Robert Thoeny
Executive Director

STATEMENT OF PURPOSE

Title: Amendment modifying the teacher incentive loan program for mathematics and science program rules.

Description of Purpose: This statement of purpose is intended to accompany the notice of intention to adopt, amend, or repeal rules, Form CR-1, filed by the Higher Education Coordinating Board.

Statutory Authority: RCW 28B.15.760.

Specific Statute Rule is Intended to Implement: RCW 28B.15.760.

Summary of Rule: Changes the definition of an independent student for the purpose of identifying when a parental contribution should be expected in calculating student eligibility; modifies budget construction provisions in line with the expectations of congressional methodology; and changes references to the "Council for Postsecondary Education" and "executive coordinator"

to "Higher Education Coordinating Board" and "executive director".

Reasons Supporting Proposed Action: Provides a consistent interface between state and federal aid programs in determining student aid eligibility. The amendment essentially adopts the federal definition of independence as it is found in the 1986 federal reauthorization of the Higher Education Act. This change reduces the complexity of program administration while improving institutional stewardship of eligibility and improving student understanding of eligibility criteria.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Shirley A. Ort, Higher Education Coordinating Board, 908 East Fifth, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Higher Education Coordinating Board, governmental agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-020 ADMINISTRATION OF PROGRAM. The ((council for postsecondary education (CPE))) higher education coordinating board (HECB) is charged with the administration of the teacher incentive loan program for teachers of mathematics and science. When a responsibility of the ((CPE or council)) hecb or board is referenced in these regulations, the authority needed to discharge that responsibility lies with the executive ((coordinator)) director or his or her designee.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-030 STUDENT ELIGIBILITY. (1) Initial Eligibility. For a student to receive a mathematics/science loan, he or she must:

(a) Be a "needy student" as defined by the ((council for postsecondary education)) higher education coordinating board;

(b) Be a resident of Washington as defined in WAC 250-18-010 through 250-18-060;

(c) Be enrolled or accepted for enrollment as a student at a participating institution;

(d) Be registered for at least ten credit hours or the equivalent for each term in which a loan is received;

(e) Have satisfied the institution's requirements for formal acceptance as a declared major in a program of teacher education in a field of mathematics or science leading to a degree, certificate, or primary endorsement;

(f) Demonstrate the capability of maintaining a 3.0 grade point average (on a 4.0 scale);

(g) Certify that he or she does not owe a refund on a state need grant, a Pell grant or a supplemental educational opportunity grant, and is not in default on a loan made, insured, or guaranteed under the national direct student loan, guaranteed student loan programs, or mathematics/science loan program;

(h) Have attained junior status or higher; or

(i) Be a certificated teacher who satisfies (a), (b), (c), (d), and (g) of this subsection and has been formally accepted into a program in teacher education leading to a degree, certificate, or primary endorsement in a field of science or mathematics.

(2) Continuing Eligibility. For a student to maintain continuing eligibility for additional mathematics/science loans, he or she must:

(a) Continue to meet the basic eligibility requirements listed under subsection (1) of this section;

(b) Not have reached the ten thousand dollar cumulative borrowing limit of the program; and

(c) Satisfy academic progress requirements of the program by maintaining a 3.0 grade point average (on a 4.0 scale) for the time period the loan was received and successfully complete the required number of credit hours.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-040 INSTITUTIONAL ELIGIBILITY. For an institution of higher education to be eligible to participate in the mathematics/science loan program, the institution must:

(1) Be a college or university in the state of Washington which is a member institution of an accrediting association recognized as such by rule of the ((council for postsecondary education)) higher education coordinating board; and

(2) Be approved by the state board of education for offering an academic program leading to a teacher's certificate with an endorsement in a field of science or mathematics or be participating in a cooperative or joint teacher education program with another accredited institution that meets the requirements of this section.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-050 AGREEMENT TO PARTICIPATE. In order to participate in the program a postsecondary institution must annually file an "agreement to participate" to indicate the institution's agreement to abide by all program rules, regulations, and guidelines, to maintain and provide all pertinent information, records, and reports requested by the ((council)) board, and to notify the ((council)) board within thirty days of any change to information reported on the agreement form.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-060 PROGRAM DEFINITIONS. (1) Financial aid terms:

(a) "Needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the ((council)) board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(b) "Financial need" shall be the difference between the budgetary cost to the student attending the institution of postsecondary education and the total applicant resources which the institutional financial aid officer determines can reasonably be expected to be available to the student for meeting such costs.

(c) "Budgetary cost" of attending an institution shall consist of that amount required to support the individual and his or her dependents during the period in which that individual is enrolled as a student. Budgets will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses, and other cost factors deemed necessary for consideration.

(d) "Total applicant resources" for the dependent student shall mean the sum of the amounts which reasonably may be expected from the student and his or her parent(s) inclusive of expected summer savings to meet the student's cost of education, and the amount which reasonably may be expected to be made available to the student by his or her parent(s) for such purpose. For the self-supporting student total applicant resources shall mean the amount which reasonably may be expected from the summer savings to meet the student's cost of education.

(e) "Washington resident" shall be defined as an individual who satisfies the requirements of WAC 250-18-010 through 250-18-060 pertaining to the determination of residency.

(f) "Dependent student" shall mean any post-high school student attending an eligible institution of postsecondary education who does not qualify as a ((self-supporting)) independent student in accordance with (g) of this subsection.

(g) ("Self-supporting student" shall be one who:

(i) Has not claimed and will not be claimed as a dependent for federal income tax purposes by the parent(s) for whom income must be reported according to the regulations for the pell grant and federally funded campus-based programs;

(ii) Has not received and will not receive financial assistance in cash or in kind of more than \$750 in each year from the parent(s) for whom income must be reported according to the regulations for the pell grant and federally funded campus-based programs; and

(iii) Has not lived and will not live in the home of the parent(s) for whom income must be reported according to the regulations for the pell grant and campus-based programs except during limited vacation periods unless the student reimburses the parent(s) for at least the value of the student's room and board and personal benefits.) "Independent student" shall mean any student who has either:

(i) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(ii) Is a veteran of the United States armed forces; or,

(iii) Is an orphan or ward of the court; or,

(iv) Has legal dependents other than a spouse; or,

(v) Is a married student or a graduate/professional student and will not be claimed by parents as a U.S. income tax exemption in 1988; or,

(vi) Was not claimed by parents as a U.S. income tax exemption in either 1986 or 1987 and had a total income and benefits for those two years equal to or greater than \$4,000.

(2) Academic and Program Requirements:

(a) Minimum Credit Hour Requirements:

(i) Normal progress. Students receiving mathematics/science loans must be registered for a minimum of ten credit hours (per term) or the equivalent for each academic year for which a loan is received except as specified in (iii) of this subsection.

(ii) Calculation of Equivalency. In recognition of the fact that participating institutions have different academic calendars and apply different full-time enrollment definitions to graduate and undergraduate students, the 10 credit hour equivalent standard is defined as follows: as 10 credit hours is 5/6's (10/12) of the minimum 12 credit hours required for full time undergraduate enrollment, a course load that by institutional standard is the equivalent of 5/6's of a minimum full time graduate course load satisfies the threshold course load requirement of the mathematics/science loan program.

(iii) Exceptions: Institutions may grant a one year exception to the requirement for successful completion of 10 credit hours or equivalent per term of mathematics/science loan recipients when, in the institution's evaluation, special circumstances prevented the student from completing the required number of courses.

Each institution must send the ((council)) board a copy of its policy for rewarding aid to Mathematics/Science loan recipients who have not satisfactorily completed the required number of credit hours the prior payment period. Each institution's policy must be approved by ((council)) board staff before warrants will be sent to the institution.

If a student is rewarded a mathematics/science Loan after having not completed a full time course load the prior term, documentation must be maintained by the institution indicating that its ((council)) board-approved policy has been followed.

(b) Grade Point Average Requirements:

(i) Initial Loans:

(A) General. First-time borrowers must demonstrate the capacity for academic achievement at a 3.0 or better grade point average in the qualifying program.

(B) Prior achievement of a 3.0 cumulative grade point average is considered to be a demonstration of capacity.

(C) Absence of a 3.0 grade point average. Institutions may certify applicants as meeting the demonstrated academic achievement criteria if, in the institution's judgment, additional factors, e.g., current academic average, faculty evaluation, test scores, job related success, etc., indicate the probability of a student meeting the 3.0 standard. Institutions must place a statement in the loan applicant's file specifying the basis for their judgment.

(D) Subsections (A) through (D) above do not apply to first time borrowers who are currently certificated to teach in Washington state.

(ii) Subsequent loans. All borrowers are expected to earn a 3.0 or equivalent grade point average for those academic years for which they have received a mathematics/science loan. A one year exception may be granted to an otherwise eligible borrower when, in the evaluation of the institution, the grade point average earned was due to special circumstances and is not indicative of the borrower's academic capability. Such an exception must be based on criteria no less stringent than the institution would apply to institutionally controlled aid awards with

similar academic standards. A borrower must maintain an on-going 3.0 average for all terms completed during the exception year. Successful maintenance of the 3.0 average must be demonstrated for each term before funds for the following term can be released.

(c) Approved Academic Program:

Approved mathematics and science programs for the sole purpose of loan eligibility will be established by the ((council for postsecondary education) higher education coordinating board) with the advice of the mathematics/science loan advisory committee, and in accordance with the state board of education regulations and guidelines concerning subject field teacher endorsements.

(3) Technical Provisions:

General. In the drafting of specific loan definitions reference has been made to the federal guaranteed student loan program (20 USC Sec. 1701 et.seq.) in order to establish consistency between programs and follow accepted loan program standards.

(a) In-school Period. The period of time during which a student continues enrollment on at least a half-time basis at a school satisfying guaranteed student loan school eligibility requirements. Where a break in such enrollment is shorter than the length of the grace period stipulated in the student's promissory note, the student remains in the in-school period upon return to half-time status at a school participating in the guaranteed student loan program.

(b) Grace Period. The nine-month period of time between the end of the in-school period and the beginning of the repayment period. The grace period begins on the first day of the month following the month in which the borrower leaves school or drops below half-time status. The grace period ends on the last day of the ninth month as written on the promissory note.

(c) Default. The failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the ((council)) board finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for one hundred eighty days.

(d) Capitalization of Interest. Capitalization means increasing the principal of a loan through the addition of accrued interest to the unpaid principal balance. Only interest which accrued during a period of time between the date the first repayment installment was due and the date it was made, when the borrower was late in beginning to repay the loan, may be capitalized on mathematics/science loans. The ((council)) board may add the interest which accrued during a period of forbearance to the principal no earlier than the date repayment of principal is required to resume, and may add the interest which accrued due to late commencement of repayment to the principal no earlier than the date repayment of principal actually begins.

(e) Totally and Permanently Disabled. Inability to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.

(f) "Public school" means a middle school, junior high school, or high school within the public school system referred to in Article IX of the state constitution.

(g) "Forgiven" to "to forgive" means to collect service as a teacher in a field of science or mathematics at a public school in the state of Washington in lieu of monetary payment.

(h) "Satisfied" means paid-in-full.

(i) Borrowing limits:

(i) Annual. The amount of any mathematics/science loan shall not exceed the demonstrated financial need of the student or two thousand five hundred dollars (\$2,500) for each nine month academic year, whichever is less. Cost effective annual minimum loan limits may be set by the ((council for postsecondary education) higher education coordinating board).

(ii) Summer Session Eligibility. The \$2,500 annual loan limit applies to a normal nine month academic year. An otherwise eligible borrower may also receive a mathematics/science loan for summer term attendance provided that the Borrower will be registered for sufficient credit hours during the summer session to at least equal the 5/6's of a full-time academic course load requirement for a regular term.

The ((council for postsecondary education) higher education coordinating board) will determine the availability of summer session loans and the maximum and minimum amount of said loans based upon available appropriations.

(iii) Cumulative. The total amount of such loans to an eligible student shall not exceed ten thousand dollars (\$10,000).

(j) Interest rate. The interest rate for the mathematics/science loan program shall be nine percent per annum on the unpaid balance of the loan.

(k) Repayment Period. The period for repaying the loan principal and interest shall be ten years with payments accruing quarterly beginning nine months from the date the borrower graduated or failed to re-enroll as at least a half-time student in accordance with the provisions. However, where the borrower has received an authorized deferment or has been granted forbearance, the periods of deferment and/or forbearance are excluded from determination of the ten year repayment period.

(l) Forgiveness. Payments of loan principal and interest will be forgiven for any repayment period in which the borrower documents qualifying service as a teacher in a field of science or mathematics at a public school in the state of Washington in accordance with WAC 250-60-010.

(m) Loan Cancellation. Where the borrower has died or become totally and permanently disabled, the loan is cancelled and the ((council for postsecondary education) higher education coordinating board) terminates all collection activity against the borrower or the estate.

(n) Prepayment. A borrower may prepay the whole or any part of a loan at any time without penalty.

(o) Late Charges. The ((council for postsecondary education) higher education coordinating board) may require that the borrower pay a late charge if the borrower fails to pay any or all of a required installment payment within thirty days after its due date or fails to provide written evidence that verifies eligibility for authorized deferment of the payment. A late charge may not exceed five cents for each dollar of each installment, whichever is less.

(p) Collection Charges:

Permissible charges. The ((council)) board may also require that the borrower pay for certain reasonable costs incurred by the ((council)) board or its agent in collecting any installment not paid when due. These costs may include attorney's fees, court costs, and long-distance phone calls.

(q) Deferments. For reasons of public policy and congruence with federal student aid program provisions, a borrower is entitled to have scheduled payments of principal deferred when engaged in certain activities during the repayment period. Interest shall not accrue during periods of deferment officially granted by the ((council)) board or its agent. Should a borrower enter a status which normally entitles him/her to a deferment of repayment, prior to the expiration of the grace period (e.g., he/she serves in the armed forces or an action program, or is unemployed), the deferment period will not commence until the expiration of the grace period. Repayment of the loan resumes immediately after the deferment period is over without any additional grace period.

Deferment is authorized during periods when a borrower is engaged in at least one of the following activities:

(i) Full-time study at a school participating in the federal guaranteed student loan program.

(ii) Full-time study at a school which meets the definition of an institution of higher education or a vocational school and is operated by an agency of the federal government (e.g., the service academies).

(iii) Study under an eligible graduate fellowship program approved by the United States secretary of education.

(iv) Study under a rehabilitation training program approved by the secretary for disabled individuals.

(v) For a period not in excess of three years during which the borrower is a member of the armed forces of the United States, or is an officer in the commissioned corps of the United States Public Health Service.

(vi) For a period not in excess of three years during which the borrower serves as a volunteer under the Peace Corps Act.

(vii) For a period not in excess of three years during which the borrower serves as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973 (ACTION Programs).

(viii) For a period not in excess of three years during which the borrower is in service comparable to the service referred to in (q)(vi) and (q)(vii) as a full-time volunteer for an organization which is exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code of 1954.

(ix) For a period not in excess of three years during which the borrower is temporarily totally disabled, or during which the borrower is unable to secure employment because he or she is caring for a spouse who is temporarily totally disabled.

(x) For a period not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive recognition required to begin professional practice or service.

(xi) For a period not in excess of twelve months during which the borrower is conscientiously seeking and is unable to find full-time employment.

(r) Forbearance. A forbearance is a flexible, limited type of deferment or postponement granted by the ((council)) board for the benefit of a borrower in order to prevent a default on a loan when the borrower is willing but temporarily unable to make scheduled payments or where the forgiveness provisions of the mathematics/science loan program would be ill served by requiring scheduled repayments. A forbearance postpones principal payments but does not stop the accruing of interest. The ((council)) board may require the borrower to pay the interest which will accrue on the loan during a period of forbearance prior to approving the forbearance; or the ((council)) board may add the interest which accrued during the period of forbearance to the principal amount of the loan on the date that repayment is required to resume.

A forbearance may, at the ((council's)) board's discretion, be granted when the borrower's economic circumstances demonstrate a current inability to make scheduled repayments if the ((council)) board believes that the borrower is willing to and will be more able to resume repayment in the future. Forbearances may also be granted to those borrowers who though teaching in eligible Washington public schools, are temporarily unable to meet the course load or subject matter criteria for loan forgiveness.

A cumulative maximum for all forbearances is set at two years or eight quarterly repayments.

(s) Repayment of Loans. Commencement of the repayment period:

(i) The repayment period begins the first day of the full repayment quarter following the grace period. Interest accrues from the first day of the first scheduled repayment period.

Borrowers who have been granted deferrals or forbearances will also reenter the repayment cycle on the same basis.

(ii) Scheduling of repayments. In order to implement the forgiveness provisions of the mathematics/science loan program, standardized loan repayment quarterly schedules are established for all borrowers as follows:

January 1	-	March 31
April 1	-	June 30
July 1	-	September 30
October 1	-	December 31

The borrower will be placed in the repayment cycle starting with the first day of the first full repayment quarter following the commencement of his/her repayment period. Borrowers who have been granted deferrals or forbearances will also reenter the repayment cycle on the same basis.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-070 APPLICATION PROCEDURE AND SELECTION. (1) Student. In order to be eligible for a mathematics/science loan, a student must:

(a) Meet all program eligibility requirements as established by program regulations and guidelines.

(b) Submit annually, in accordance with institutional and ((council)) board deadlines, a completed mathematics/science loan application form.

(c) Meet institutional requirements for the submission of a financial aid form or comparable financial aid status documents.

(2) Academic Certification:

(a) The designated academic official must certify that the applicant satisfies the grade point average and approved academic program requirements of the mathematics/science loan program.

(b) The institution may prioritize eligible applicants in terms of academic achievement, degree of financial need, appropriateness of educational program, and/or promise of teaching success as demonstrated by successful completion of objective institutional teacher education requirements.

(c) Notwithstanding financial need ranking criteria, otherwise eligible renewal loan applicants may be awarded subsequent mathematics/science loans up to their demonstrated financial need (within program limits).

(3) Criteria for institutional determination of financial need and the making of awards:

(a) Budgetary costs will be determined by the institution subject to approval by the ((council for postsecondary education)) higher education coordinating board.

(b) Total applicant resources shall be determined according to the ((tmform)) congressional methodology system of need analysis. Institutional financial aid officers may make reasonable adjustments to the computed total applicant resources if individual circumstances warrant such adjustments. In addition, non-liquid assets in the form of equity in the primary residence and net worth of business or farm may be disregarded in the computation of total applicant resources.

Any adjustments must be documented and placed in the student's financial aid file.

(c) The mathematics/science loan award shall be designed in such a manner that the sum total of financial aid awarded any one student will not exceed the difference between the total applicant's resources and the budgetary cost of education.

(d) In the case of students attending private institutions, all state funds, when combined, may not exceed the nontuition and required fees portion of the student's budgetary cost.

(4) Impact of Student Withdrawal:

(a) Should a student recipient leave school by reason of failure or withdrawal at the end of the grading period, the unused portion of the loan will remain with the state where it will be credited to borrower's account as a prepayment.

(b) Should a student totally withdraw from school during a term in which a mathematics/science loan had been disbursed, the following rules shall prevail:

(i) The student's eligibility for the mathematics/science loan program is terminated and no further disbursements under the program may be made without written approval of the ((council for postsecondary education)) higher education coordinating board.

(ii) If the student is entitled to a refund from the institution, that portion of the refund attributable (on a proportionate basis) to the mathematics/science loan program will be refunded to the ((council for postsecondary education)) higher education coordinating board where it will be credited to the borrower's loan account as an early repayment.

(iii) A student may regain eligibility by special appeal for reinstatement to the institution with the concurrence of the ((council)) board.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-080 CONTROL OF FUNDS. (1) General. The ((council for postsecondary education)) higher education coordinating board is responsible for the disbursement of loan funds to individual students under the mathematics/science loan program. As warrants will be made payable to the individual students, no transfer of funds to participating postsecondary institutions will be made. Institutions will be allocated a commitment funding level that establishes the annual aggregate loan dollars available for award to their students.

(2) Institutional Funding Request. Each eligible institution desiring to participate in the mathematics/science loan program must apply annually to the ((council for postsecondary education)) higher education coordinating board's financial aid section for an allocation of funds. The institutional request must be submitted by the appropriate deadline and contain any information requested by the ((council)) board.

(3) If an institution can utilize more funds than were allocated for the fiscal year, it should apply for supplemental funds. A request for supplemental funds should be filed as soon as the need is known and may be filed at any time throughout the fiscal year. Such requests must be in writing and must include justification regarding the need

for additional funds. Supplemental awards may be made periodically throughout the year on a funds available basis.

(4) If an institution is unable to expend its full allocation, it must deobligate that portion of funds which will be unutilized. Written notification of deobligation must be submitted to the ((council)) board as soon as the institution has determined its inability to fully expend its mathematics/science loan program funds.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-090 LOAN COLLECTION. The ((council)) board is responsible for collection of loans made and shall exercise due diligence in such collection to ensure that maximum repayments are made. The ((council)) board is responsible to forgive all or parts of such loans under the criteria established in these rules and regulations.

Receipts from the payment of principal or interest or any other subsidies to which the ((council)) board as lender is entitled, which are paid by or on behalf of borrowers, shall be deposited with the ((council for postsecondary education)) higher education coordinating board and shall be used to cover the costs of making the loans, maintaining necessary records and making collections. All receipts beyond those necessary to pay such costs shall be used to make loans to eligible students.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-100 CRITERIA FOR OBTAINING FORGIVENESS BASED ON QUALIFYING TEACHER SERVICE. (1) General. In order to be granted loan forgiveness in lieu of repayment, a borrower, for each repayment period for which forgiveness is sought, must:

(a) Be teaching in an eligible Washington public school.

(b) Be teaching qualifying mathematics/science courses equal to at least one-half of a full-time teaching assignment as defined by the employing school district.

(c) Complete and submit, in a timely manner, the documentation necessary to support the forgiveness request.

(2) Identification of Qualifying Mathematics and Science Courses:

Subordinate to specific regulations, determination of qualifying courses is the responsibility of the employing school district. The superintendent of schools of the employing district or his/her designee(s) is responsible for certifying qualifying courses.

(a) Supplementary criteria for qualifying courses will be issued as necessary by the ((council for postsecondary education)) higher education coordinating board after consultation with the mathematics/science loan advisory committee.

(b) At the secondary school level, courses which satisfy state graduation requirements in mathematics or science are eligible courses.

(c) At the middle school and junior high level, courses which have been traditionally viewed as science or mathematics foundations courses are eligible.

(3) Calculating Qualifying Teacher Service Under the Mathematics/Science Loan Program:

The superintendent of schools of the employing district or his/her designee(s) is responsible for calculating qualifying teacher service.

(a) General. In order to obtain forgiveness of scheduled repayments, a borrower must, for the repayment period, be employed at least half-time as a teacher of qualifying mathematics or science courses.

A borrower may be employed in any status half-time or greater so long as the number of qualifying mathematics or science courses taught are themselves equal to a half-time assignment.

In calculating teaching days, paid sick leave covered under a teacher's contract are considered as teaching days.

(b) Calculation of Eligibility. The following formula shall be used to determine teacher eligibility for forgiveness:

(i) Calculate the number of teaching days in the repayment quarter (x).

(ii) Determine the average number of hours per day required for full-time teaching status (y).

(iii) Multiply (x) time (y) to establish a full teaching load for the repayment period; fifty percent of that total establishes the qualifying teaching load.

(iv) Calculate the number of class hours taught in the repayment period in qualifying mathematics or science courses. If it equals or exceeds the qualifying teaching load (iii) of this subsection, the borrower can be certified for forgiveness.

(c) Exceptions. In the case of schools that because of size or geography are restricted to limited course offerings that make it a practical impossibility for a borrower to obtain a teaching assignment that qualifies for forgiveness, an appeal process is available. The ((council for postsecondary education)) higher education coordinating board may grant forgiveness in those individual cases where the borrower is teaching a fair share of the available qualifying courses even if the total qualifying hours fall below the half-time standard.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-110 PROGRAM ADMINISTRATION AND AUDITS. (1) The staff of the ((council for postsecondary education)) higher education coordinating board, under the direction of the executive ((coordinator)) director, will manage the administrative functions relative to this program.

(2) The ((council)) board shall appoint an advisory committee comprised of representatives of eligible institutions and of other professionals in the field of education with the interest and expertise to assist ((council)) board staff:

- (a) In the drafting of program rules and guidelines;
- (b) In the establishment of student award priorities;
- (c) In setting criteria for the allotment of funds to participating institutions; and

(d) In general program oversight and administration.

(3) The ((council for postsecondary education)) higher education coordinating board will review institutional administrative practices to determine institutional compliance with rules and regulations and program guidelines. If such a review determines that an institution has failed to comply with program rules and regulations or guidelines, the ((council)) board may suspend, terminate, or place conditions upon the institution's participation in the program and/or require reimbursement to the program for any funds lost or improperly expended.

(4) Any student who has obtained a mathematics/science loan through means of a willfully false statement or failure to reveal any material fact, condition, or circumstance affecting eligibility will be subject to applicable civil or criminal penalties.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 6-83, filed 12/7/83)

WAC 250-60-120 SUSPENSION OR TERMINATION OF INSTITUTIONAL PARTICIPATION. Upon receipt of a complaint or other evidence that an institution has failed or is failing to comply with program rules and regulations, the ((council)) board staff shall notify the institution by mail of the nature of such allegations and conduct a review of the alleged violations.

If preliminary findings indicate that a violation or violations may have occurred or are occurring, the ((council)) board staff shall attempt, through mediation and conciliation, to effect corrections and/or secure reimbursement from the institution in the event any funds were expended out of compliance with the provisions of WAC 250-60-030 through 250-60-080.

If no agreement is reached through the mediation and conciliation process, the executive ((coordinator)) director shall file a formal complaint with the ((coordinator)) board and notify the institution of the conduct which warrants the complaint. Based upon a finding pursuant to RCW 34.04.170, the complaint may include an order for a summary suspension pending proceedings for termination, suspension, reimbursement, or other action.

The executive ((coordinator)) director or a designated hearing officer shall conduct a hearing and make findings and conclusions in accordance with the Administrative Procedures Act, Chapter 34.04 RCW. The findings, conclusions, and any recommendations for action shall be submitted to the ((council)) board for final action pursuant to RCW 34.04.110. The ((council)) board may accept or reject, in whole or in part, any recommendations made by the hearing officer, may remand for further findings and/or take any other action the ((council)) board deems appropriate under the circumstances.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 88-06-092 PROPOSED RULES BOARD OF HEALTH

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning standards for labor camps, amending chapter 248-63 WAC;

that the agency will at 9:30 a.m., Wednesday, April 13, 1988, in the Spokane County Health District Auditorium, West 1101 College, Spokane, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.20.050.

The specific statute these rules are intended to implement is RCW 70.54.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988, 1112 South Quince, Olympia 98504.

Dated: March 2, 1988
By: Thelma R. Struck
Assistant Secretary

Health and Rehabilitative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending chapter 248-63 WAC, Standards for labor camps.

Purpose of the Rule Changes: To update chapter 248-63 WAC, Standards for labor camps.

Reasons These Rules are Necessary: To clarify minimum health and safety standards as well as establish regulations which conform with other applicable state and federal requirements.

Statutory Authority: RCW 70.54.110 and 43.20.050.

Summary of the Rule Change: Revision to existing health standards necessary for conformance with other state and federal regulations. Establishes minimum health and safety standards based upon most up-to-date information. Clarifies the definition of affected housing and establishes a concise enforcement activity. Clearly identifies the role of regulatory agencies, responsible parties and occupants of the housing.

Person or Persons Responsible for Drafting, Implementation and Enforcement: Byron R. Plan, Section Manager, Accommodation Survey Section, mailstop ET-35, (206) 586-4415.

The rule amendments are proposed by DSHS for adoption by the State Board of Health.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

Chapter 248-63 WAC HEALTH SANITATION AND SAFETY STANDARDS FOR TEMPORARY-WORKER HOUSING (FORMERLY STAN- DARDS FOR LABOR CAMPS)

AMENDATORY SECTION (Amending Order 273, filed 8/30/84)

WAC 248-63-001 PURPOSE. ((The following rules and regulations are established as)) Chapter 248-63 WAC establishes the Washington state board of health minimum health and sanitation requirements for temporary-worker housing or labor camps((. The regulations set forth are adopted pursuant to the provisions of chapter 43-20 RCW.

The person responsible for labor camps is encouraged to use innovative ideas and incorporate new approaches to solve the environmental problems of worker housing, such as relocatable housing, dual-purpose buildings, and new design techniques. PROVIDED HOWEVER, That all ideas and approaches shall meet the intent of these rules and regulations) as specified in RCW 70.54.110. These rules implement the intent of RCW 43.20.050.

AMENDATORY SECTION (Amending Order 273, filed 8/30/84)

WAC 248-63-010 DEFINITIONS. (1) ((Central foodhandling facility" shall mean any facility provided by employers, growers, management, or other person as defined in subsection (8) of this section where food is served or provided to the labor camp occupants with or without charge.

(2) "Common foodhandling facility" mean a facility provided by employers, growers, management, or other person as defined in subsection (8) of this section for use by the labor camp occupants in the preparation and consumption of their own food)) "Construction" means building of new temporary-worker housing and additions, or alterations to existing temporary-worker housing when the housing started on or after May 3, 1969 (reference chapter 70.54 RCW).

((3))) (2) "Department" ((shall)) means the Washington state department of social and health services.

((4)) "Director" shall mean the director of the division of health of the Washington state department of social and health services or authorized representative)) (3) "Dormitory" means shelter, building, or portion of a building which:

(a) Is physically separated from dwelling units and common use areas;

(b) Is designated by the operator as a sleeping area for groups of temporary workers and/or those that accompany temporary workers;

(c) Minimally houses five occupants; and

(d) Lacks cooking and eating facilities.

((5))) (4) "Dwelling unit" ((shall mean family unit, single unit, dormitory, or other facility and/or housing provided by a person for temporary workers and used or intended to be used for living and/or sleeping, with or without facilities for cooking and eating:)) means a shelter, building, or portion of a building which:

(a) ((Dormitory" shall mean facilities and/or housing accommodating one sex only, used for sleeping purposes and designed for group occupancy:)) Is physically separated from other units, dormitories, and other common-use areas;

(b) ((Family unit" shall mean facilities and/or housing accommodating members of both sexes for living and/or sleeping, with or without facilities for cooking and eating purposes:)) Is designated by the operator for use by temporary workers and/or those that accompany temporary workers as sleeping and/or living space; and

(c) ((Single unit" shall mean facilities and/or housing accommodating one person only for living and/or sleeping, with or without facilities for cooking and eating purposes:)) May contain cooking and eating facilities.

((6)) "Health officer" means the legally qualified person appointed as the health officer for the city, town, county, or district public health

department as defined in RCW 70.05.010(2) or authorized representative)) (5) "Exemption" means a written authorization from the department which excludes an operator from meeting a specific standard in this chapter. An exemption may be from:

- (a) One or more subsections of this chapter;
- (b) A specific condition; and/or
- (c) A specific time limit.

((7) "Labor camp" shall mean all facilities, housing, and/or real property consisting of five or more dwelling units, recreational vehicle spaces, campground spaces, or other areas set aside and/or provided to accommodate temporary worker supplied shelter or any combination thereof, together with the land appurtenant thereto provided with or without charge by employers, growers, management, or other person, for occupancy by temporary workers or temporary workers and dependents, and shall include facilities, housing, and/or real property located either at the site of employment or elsewhere. Separate dwelling units, or clusters of units containing less than five units, shall constitute a labor camp, where a cumulative total of five or more dwelling units is maintained by the same owner or person responsible. Any dormitory building accommodating five or more persons shall be considered a labor camp. The provisions hereof shall not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to any temporary worker of the same character and on the same or comparable terms and conditions as provided to the general public)) (6) "Foodhandling facility" means a designated, enclosed area for preparation of food, either:

(a) "Central foodhandling facility," a cafeteria-type eating place with operator-furnished food prepared under the direction of the operator for consumption with or without charge by temporary workers; or

(b) "Common foodhandling facility," an area designated by the operator for temporary workers to store, prepare, cook, and eat their own food supplies.

((8) "Person" shall mean any individual, firm, partnership, corporation, association, or the legal successor thereof and any agency of the city, county, or state and any municipal subdivision thereof)) (7) "Health and sanitation permit" or "permit" means a nontransferable document issued by the department or the health officer authorizing the use of temporary-worker housing under conditions specified in this chapter. A permit will specify:

(a) The length of time the permit is valid;

(b) Operator's name; and

(c) Number of persons authorized to occupy temporary-worker housing according to square footage requirements.

((9) "Refuse" shall mean all putrescible and nonputrescible solid waste)) (8) "Health officer" means the individual appointed under chapter 70.05 RCW as the health officer for a local health department or appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

((10) "Temporary worker" shall mean any individual employed by a person where the labor is performed on a seasonal basis, where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year or when the worker is employed for a limited time only or his or her performance is contemplated for a particular piece of work, usually of short duration)) (9) "Laundry" means an area or room with laundry sink and/or mechanical washing machines used to wash clothing.

(10) "Operator" means owner or the individual designated as the person responsible for the temporary-worker housing and whose name appears on the health and sanitation permit.

(11) "Person" means any individual, firm, partnership, corporation, association or the legal successor thereof, and any agency of the city, county, or state and any municipal subdivision.

(12) "Refuse" means solid wastes or garbage.

(13) "Sink" means a properly trapped plumbing fixture which prevents back passage or return of air and includes:

(a) "Handwashing sink" or lavatory with hot and cold water under pressure and which is used for handwashing purposes; or

(b) "Laundry sink" of a size large enough to accommodate hand laundering of clothing.

(14) "Temporary worker" means a person employed intermittently and not residing year-round in the same place.

(15) "Temporary-worker housing" (formerly a labor camp) means all facilities provided by the operator including:

(a) Foodhandling facilities, toilet, bathing, handwashing facilities, and laundry facilities;

(b) Spaces for accommodating worker-supplied housing and leisure/recreational facilities if either are provided;

(c) Shelter or a dormitory for housing ten or more temporary workers and/or those that accompany temporary workers;

(d) Three dwelling units; or

(e) A combination of facilities, shelters, spaces, dwelling units or dormitories for housing ten or more temporary workers and/or those that accompany temporary workers.

(16) "Worker-supplied housing" means a shelter provided by the temporary worker and may include tents, recreational vehicles, or trailers.

NEW SECTION

WAC 248-63-025 PERMIT—ADMINISTRATION—ENFORCEMENT—EXEMPTIONS.

(1) The operator shall:

(a) Submit a completed application to the department at least forty-five days prior to use of the temporary-worker housing;

(b) Have a permit from the department or health officer prior to initial occupancy; and

(c) Produce the permit upon request of workers, representatives of workers, and representatives of governmental agencies.

(2) The operator may:

(a) Allow the use of temporary-worker housing without a permit when:

(i) More than forty-five days have passed since a completed application was submitted and received by the department or health officer as evidenced by the post mark; and

(ii) The department or health officer has not inspected or issued a permit; and

(iii) Other local, state, or federal laws, rules, or codes do not prohibit use of the temporary-worker housing.

(b) Request in writing an exemption from the department; and

(c) Appeal decisions of the department according to chapter 34.04 RCW Administrative Procedures.

(3) The department may:

(a) Establish an agreement with a health officer whereby the health officer assumes responsibility for inspections, issuing permits, and enforcing chapter 248-63 WAC excluding exemptions; and

(b) Exempt the operator from complying with specified standards of these regulations if the department establishes the health and safety of the occupants will not be jeopardized.

(4) The department or health officer shall:

(a) Survey each premises of temporary-worker housing to ensure standards of this chapter are met, including inspection:

(i) Prior to issuance of initial permit;

(ii) Upon request of operator; and

(iii) At least once every two years or more frequently as determined by the department or health officer.

(b) Issue permit to the operator when an on-site inspection reveals conditions meet or exceed the requirements in chapter 248-63 WAC;

(c) Include on each permit the duration for which the permit is valid not to exceed two years;

(d) Take appropriate enforcement action including any one or combination of the following:

(i) Develop corrective action including a compliance schedule;

(ii) Notify the operator concerning violations; and

(iii) Suspend or revoke the permit.

(e) Allow the operator to use temporary-worker housing without a permit as specified in subsection (2) of this section.

(5) The department or health officer may:

(a) Issue a provisional permit when temporary-worker housing fails to meet the standards in this chapter if:

(i) A written corrective action plan including a compliance schedule is approved by the department or health officer; or

(ii) Pending the department's decision regarding an exemption request.

(b) Establish and collect fee as authorized in chapter 43.20A RCW or RCW 70.05.060.

NEW SECTION

WAC 248-63-035 SUPERVISION AND RESPONSIBILITY.

The operator shall:

(1) Ensure regular maintenance of occupied temporary-worker housing to meet standards in this chapter;

(2) Comply with this chapter prior to occupancy even if the department or health officer fails to issue a permit within forty-five days of application as described in WAC 248-63-025;

(3) Supervise the maintenance of temporary-worker housing at all times;

(4) Establish rules for users of temporary-worker housing consistent with health and sanitation requirements in this chapter;

(5) Post rules for temporary-worker health and sanitation when available from the department or health officer; and

(6) Inform occupants of their responsibilities related to maintaining housing consistent with health and sanitation requirements of this chapter.

NEW SECTION

WAC 248-63-045 LOCATION AND MAINTENANCE. The operator shall:

(1) Provide well-drained sites for temporary-worker housing;

(2) Locate and maintain temporary-worker housing to prevent the creation of a health or safety hazard; and

(3) Not locate temporary-worker housing within five hundred feet of an occupied feedlot, dairy, or poultry operation unless determined by the department or health officer that no health risk exists.

NEW SECTION

WAC 248-63-055 WATER SUPPLY. The operator shall:

(1) Provide an adequate, convenient water supply from an approved source as described in chapter 248-54 WAC;

(2) Submit a water sample to a department-certified laboratory for testing of bacteriological quality each year prior to opening temporary-worker housing as described in WAC 248-54-165;

(3) Delay opening housing until bacteriological quality meets requirements as described in WAC 248-54-175;

(4) Provide hot and cold running water under pressure twenty-four hours a day for bathing and handwashing facilities adequate to meet needs of occupants served as defined by the department;

(5) Provide water under pressure for laundry facilities;

(6) Operate and maintain water service in accordance with chapter 248-54 WAC for temporary-worker housing existing prior to August 1984;

(7) Design, construct, and maintain a water supply system in accordance with chapter 248-54 WAC and this section for temporary-worker housing constructed after August 1984.

NEW SECTION

WAC 248-63-065 SEWAGE DISPOSAL. The operator shall:

(1) Provide on-site sewage disposal systems designed, constructed, and maintained as required in chapter 248-96 WAC, chapter 173-240 WAC, and local regulations; and

(2) Ensure connection and drainage of sewage and waste water from all temporary-worker housing to a sewage disposal system approved by the jurisdictional agency.

NEW SECTION

WAC 248-63-075 CONSTRUCTION AND MAINTENANCE OF DWELLING UNITS, DORMITORIES, AND OTHER FACILITIES USED FOR TEMPORARY-WORKER HOUSING. (1) The operator shall provide structurally sound buildings and shelters which:

(a) Are maintained in good repair;

(b) Are maintained in a sanitary condition; and

(c) Protect temporary workers against the elements.

(2) The operator of temporary-worker housing may instead comply with requirements of the United States Department of Labor, Employment and Training Administration (ETA) standards, 20 CFR 654.404 through 654.417, if the housing was constructed before March 1980 and the housing does not meet standards in this section.

(3) The operator constructing new or remodeling existing temporary-worker housing shall meet requirements in this section that apply to the housing being constructed or remodeled.

(4) The operator shall follow the compliance schedule established with the department or health officer when existing temporary-worker housing fails to meet requirements in this section.

(5) The operator shall provide temporary-worker housing with:

(a) Floors of impervious material, such as concrete, tile, or smooth, planed, tight-fitting wood;

(b) Wood floors. If used, wood floors shall be at least twelve inches above the ground;

(c) Clean, cleanable surfaces on interior walls free of excessive peeling paint;

(d) Cold, potable, running water under pressure within one hundred feet of each dwelling unit;

(e) A minimum of seventy square feet gross floor space for first occupant and fifty square feet for each additional occupant in each dwelling unit;

(f) A minimum of fifty square feet for each occupant in each dormitory;

(g) A minimum ceiling height of six foot eight inches over at least one-half the floor area;

(h) A window area of one-tenth of the total floor area in each dwelling unit, dormitory, and other habitable rooms;

(i) An adequate mechanical ventilation system or natural ventilation. Openable windows or skylights used for ventilation shall open:

(i) To forty-five percent of total area; and

(ii) Directly to the outside.

(j) Electrical service including:

(i) Installation of wiring of fixtures consistent with the State Building Code chapter 19.27 RCW and local ordinances;

(ii) Maintenance of wiring and fixtures in safe condition;

(iii) One electrical ceiling fixture and one wall outlet in each room of each dwelling unit;

(iv) One electrical ceiling or wall fixture and outlets as needed for each two hundred fifty square feet of space in each dormitory; and

(v) One electrical ceiling or wall fixture and outlets as needed in each central toilet, handwashing, bathing, and laundry room.

(k) Sixteen-mesh screens on all exterior openings; and

(l) Screen doors equipped with self-closing devices.

(6) The operator shall exclude floor space where ceiling height is under five feet when calculating minimum space requirements.

(7) Temporary-worker housing consisting of trailers and recreational vehicles manufactured after July 1968 shall have Washington state department of labor and industries insignia as required in chapters 296-150A and 296-150B WAC.

NEW SECTION

WAC 248-63-085 WORKER-SUPPLIED HOUSING—SPACES AND SITES. The operator providing spaces or sites to accommodate worker-supplied housing shall:

(1) Designate the area to be used for worker-supplied housing; and

(2) Provide centralized toilets, handwash sinks, bathing, and laundry facilities for worker-supplied housing spaces or sites as specified in WAC 248-63-095.

NEW SECTION

WAC 248-63-095 TOILETS, HANDWASHING, BATHING, AND LAUNDRY FACILITIES. (1) The operator shall provide toilets, handwashing, bathing, and laundry facilities as required in this section.

(2) The operator providing centralized toilets, handwashing, and bathing facilities shall:

(a) Locate toilets and handwashing sinks within two hundred feet from temporary-worker housing lacking toilets;

(b) Locate bathing facilities within three hundred feet from temporary-worker housing;

(c) Provide means for individual privacy for toileting and bathing;

(d) Maintain facilities in a clean and sanitary condition;

(e) Determine required number of centralized toilets, handwashing sinks, and bathing facilities by:

(i) Using the maximum occupancy permitted and recorded on the permit as a base; and

(ii) Excluding from the determination the numbers of occupants sheltered in:

(A) Operator-supplied dwelling units containing toilets, handwashing sinks, and bathing facilities; and

(B) Worker-supplied housing containing toilet or bathing facilities.

(f) Determine number of centralized toilets, handwashing, and bathing facilities according to the following table calculating by numbers or major fraction from sixteen people on:

Number of People	Toilets	Bathing	Handwashing Sinks
1-15	2	2	2
16-30 or major fraction	3	3	3
31-45 or major fraction	4	4	4
46-60 or major fraction	5	5	5

(i) Add one additional toilet, handwash sink, and bathing facility per fifteen occupants or major fraction beyond sixty occupants; and
(ii) If desired, substitute urinals for required toilets not to exceed replacement of one-third of the required toilets.

(g) Provide water flush toilets unless privies or other methods are specifically approved by the department or health officer according to requirements in chapter 248-96 WAC; and

(h) Provide adequate, accessible supplies of toilet tissue and holders.

(3) The operator having toilet facilities in dwelling units shall:

(a) Provide a handwash sink in each dwelling unit; and

(b) Inform occupants of requirements to maintain toilets in clean and sanitary condition.

(4) The operator shall:

(a) Provide sloped floors in centralized toilet rooms;

(b) Connect handwash sinks, bathing, and laundry facilities through properly trapped floor drains to an approved disposal system;

(c) Provide floors of nonslip materials in centralized toilets, handwashing, bathing, and laundry facilities; and

(d) Provide cleanable, nonabsorbent waste containers in centralized toilet rooms.

(5) The operator shall provide centralized laundry facilities convenient to temporary-worker housing as follows:

(a) One laundry sink and one mechanical washing machine for up to and including each fifty occupants as approved and listed on the permit; or

(b) Additional mechanical washing machines provided to replace required numbers of laundry sinks; or

(c) Two laundry sinks to replace every required mechanical washing machine; and

(d) Facilities for drying clothes.

(6) The operator may omit the requirement in WAC 248-63-095(5) if commercial or public laundry facilities are:

(a) Reasonably accessible to temporary workers; and

(b) Conveniently located for temporary workers.

NEW SECTION

WAC 248-63-105 HEATING. The operator shall:

(1) Provide means of maintaining temperature of at least sixty-five degrees Fahrenheit in all rooms of dwelling units, dormitories and bathing facilities used during periods requiring artificial heating;

(2) Install, vent, and maintain heating facilities to prevent fire hazard and fume concentrations;

(3) Avoid placing heating facilities in locations obstructing exits from the dwelling unit;

(4) Prohibit use of portable kerosene heaters; and

(5) If providing wood burning devices in trailers, mobile homes, or recreational vehicles used as temporary-worker housing, have Washington state department of labor and industries insignia as required in chapters 296-150A and 296-150B WAC.

NEW SECTION

WAC 248-63-115 LIGHTING. The operator shall provide:

(1) A minimum of thirty foot-candles of light measured thirty inches from the floor in all rooms of temporary-worker housing; and

(2) Adequate outdoor lighting for safe passage within the temporary-worker housing.

NEW SECTION

WAC 248-63-125 COOKING AND FOODHANDLING FACILITIES. (1) The operator shall provide cooking or foodhandling facilities for all temporary workers.

(2) The operator providing cooking facilities in each dwelling unit shall include:

(a) An operable cook stove or hot plate with a minimum of two burners for every ten occupants;

(b) A sink with running water under pressure;

(c) Food storage shelves and food preparation counters;
(d) Individual or centralized mechanical refrigeration, capable of maintaining temperature of forty-five degrees Fahrenheit or below, which has space for storing perishable food items of all affected temporary workers;

(e) Tables and chairs or equivalent seating;

(f) Fire resistant, nonabsorbent, and easily cleanable walls adjacent to cooking areas; and

(g) Floors which are nonabsorbent and easily cleanable.

(3) The operator providing central foodhandling facilities for temporary workers shall meet requirements of the state board of health in chapter 248-84 WAC food service sanitation.

(4) The operator with common foodhandling facilities shall provide:

(a) A room or building separate from and convenient to temporary-worker housing;

(b) An operable cook stove or hot plate with a minimum of two burners for every ten occupants;

(c) Sinks with hot and cold running water under pressure;

(d) Spaces for food storage shelves, counters, and food preparation;

(e) Mechanical refrigeration, capable of maintaining temperatures of forty-five degrees Fahrenheit or below, which has space for storing perishable food items for all affected temporary workers;

(f) Tables and chairs or equivalent seating;

(g) Fire-resistant, nonabsorbent, and easily cleanable walls adjacent to cooking areas; and

(h) Nonabsorbent, easily cleanable floors.

NEW SECTION

WAC 248-63-135 BEDS AND BEDDING. The operator shall:

(1) Provide beds or bunks furnished with clean mattresses in good condition for numbers of occupants specified on the permit;

(2) If choosing to provide bedding, ensure bedding is clean and maintained in a sanitary condition;

(3) Provide a minimum of twelve inches between each bed or bunk and the floor;

(4) Separate single beds laterally by at least thirty-six inches;

(5) If bunk beds are used:

(a) Separate double-deck bunks laterally by at least forty-eight inches;

(b) Maintain a minimum space of twenty-seven inches between the upper and lower bunks; and

(c) Prohibit triple bunks.

(6) Provide storage facilities for clothing and personal articles in temporary-worker housing.

NEW SECTION

WAC 248-63-145 HEALTH AND SAFETY PROVISIONS. The operator shall:

(1) Provide two means of escape in every sleeping and eating area of temporary-worker housing (e.g., doors, windows);

(2) Meet requirements of Washington state fire marshal chapter 212-10 WAC for smoke detection devices;

(3) Prevent potential health, safety, and fire hazards by:

(a) Storing and using dangerous materials away from the temporary-worker housing; and

(b) Prohibiting:

(i) Storing flammables or volatile liquids or materials other than those intended for household use in or adjacent to dwelling units, foodhandling facilities, toilets, bathing facilities, or laundry areas; and

(ii) Storing or mixing pesticides or other toxic chemicals in housing areas other than those intended for household use.

(c) Providing accessible, available first-aid equipment meeting requirements of WAC 296-306-050; and

(d) Storing unused refrigerator units to prevent harm to children (e.g., crushing, suffocation).

NEW SECTION

WAC 248-63-155 REFUSE DISPOSAL. The operator shall establish and maintain refuse disposal systems including:

(1) Protecting against rodent harborage, insect breeding, and other health hazards while storing, collecting, transporting, and disposing of refuse;

(2) Storing refuse in sound enclosed containers;

(3) Providing accessible containers for temporary-worker housing;

- (4) Emptying refuse containers at least once every week or more often if necessary;
- (5) Removing refuse from temporary-worker housing areas; and
- (6) Properly disposing of all refuse consistent with sanitation codes approved by the local jurisdiction.

NEW SECTION

WAC 248-63-165 RODENT AND INSECT CONTROL. The operator shall take appropriate measures to control rodents and insects in and around temporary-worker housing.

NEW SECTION

WAC 248-63-175 DISEASE PREVENTION AND CONTROL. The operator shall:

- (1) Make reasonable efforts to know if disease is present among occupants of temporary-worker housing;
- (2) Report suspected infectious diseases among occupants of temporary-worker housing to the local health officer; and
- (3) Assist temporary workers to obtain medical diagnosis and treatment when ill.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 248-63-020 ADMINISTRATION.
- WAC 248-63-030 WATER SUPPLY.
- WAC 248-63-040 SEWAGE DISPOSAL.
- WAC 248-63-050 PLUMBING.
- WAC 248-63-060 REFUSE DISPOSAL.
- WAC 248-63-070 RODENT AND INSECT CONTROL.
- WAC 248-63-080 LOCATION AND MAINTENANCE.
- WAC 248-63-090 CONSTRUCTION AND MAINTENANCE OF DWELLING UNITS AND OTHER BUILDINGS.
- WAC 248-63-100 HEATING.
- WAC 248-63-110 LIGHTING.
- WAC 248-63-120 TOILET, HANDWASHING, BATHING, AND LAUNDRY FACILITIES.
- WAC 248-63-130 FOODHANDLING FACILITIES.
- WAC 248-63-140 BEDS AND BEDDING.
- WAC 248-63-150 SAFETY PROVISIONS.
- WAC 248-63-160 SUPERVISION AND RESPONSIBILITY.
- WAC 248-63-170 COMMUNICABLE DISEASE.
- WAC 248-63-180 EXEMPTIONS.

WSR 88-06-093**PROPOSED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning local education program enhancement, chapter 392-140 WAC;

that the agency will at 9:00 a.m., Friday, April 8, 1988, in the Bruno Conference Room, SPI, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is section 506 chapter 7, Laws of 1987 [1st] ex. sess.

Dated: March 2, 1988

By: Frank B. Brouillet

Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-140 WAC.

Rule Section(s): WAC 392-140-160 through 392-140-174.

Statutory Authority: Section 506, chapter 7, Laws of 1987 1st ex. sess.

Purpose of the Rule(s): To implement section 506, chapter 7, Laws of 1987 1st ex. sess.

Summary of the New Rule(s) and/or Amendments: Applicable to the distribution of moneys to school districts for the local education program enhancement program.

Reasons Which Support the Proposed Action(s): Establishes policies and procedures related to distribution of local education program enhancement program.

Section Analysis: WAC 392-140-160, a listing of provisions applicable to the distribution of moneys to school districts for the local education program enhancement program; 392-140-161, defines "statement of assurances"; 392-140-162, defines "full-time equivalent students"; 392-140-163, defines "annual average full-time equivalent students"; 392-140-164, defines "biennial full-time equivalent students"; 392-140-165, defines "support level"; 392-140-166, defines "end of year report"; 392-140-167, defines "needs assessment"; 392-140-168, defines "eligible programs"; 392-140-169, lists conditions with which school districts must comply in order to receive local education program enhancement moneys; 392-140-170, specifies that allowable expenditures are solely those to fund any or all of the eligible program activities; 392-140-171, specifies the process for making payments to school districts for local program enhancement moneys; 392-140-172, specifies that the support level shall be subject to a proration provision; 392-140-173, identifies information and due date for the end of year report; and 392-140-174, specifies the treatment of unexpended funds.

Person of Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Perry Keithley, SPI, 3-6708; and Enforcement: Dr. Charles Marshall, SPI, 3-1880.

Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

NEW SECTION

WAC 392-140-160 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPLICABLE PROVISIONS. The provisions of WAC 392-140-160 through 392-140-174 shall be applicable to the distribution of moneys to school districts for the local education program enhancement program pursuant to section 506, chapter 7, Laws of 1987 1st ex. sess.

NEW SECTION

WAC 392-140-161 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—STATEMENT OF ASSURANCES. As used in WAC 392-140-160 through 392-140-174,

"statement of assurances" means the form distributed by the superintendent of public instruction on which the school district assures that, as a condition of the receipt of local education program enhancement moneys, it shall comply with the terms specified in WAC 392-140-169.

NEW SECTION

WAC 392-140-162 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—FULL-TIME EQUIVALENT STUDENT. As used in WAC 392-140-160 through 392-140-174, "full-time equivalent student" means the same as that term is defined in WAC 392-121-122.

NEW SECTION

WAC 392-140-163 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT STUDENTS. As used in WAC 392-140-160 through 392-140-174, "annual average full-time equivalent students" means the same as that term is defined in WAC 392-121-133: PROVIDED, That for school districts enrolling:

(1) Greater than one hundred annual average full-time equivalent students:

(a) Annual average full-time equivalent students means annual average full-time equivalent students calculated pursuant to WAC 392-121-133 less the annual average full-time equivalent student enrollment for any small school plants judged to be remote and necessary by the state board of education; plus

(b) For small school plants judged to be remote and necessary by the state board of education:

(i) For grades Kindergarten through 6, the greater of sixty annual average full-time equivalent students or actual annual average full-time equivalent students; plus

(ii) For grades 7 and 8, the greater of twenty annual average full-time equivalent students or actual annual average full-time equivalent students.

(2) Less than or equal to one hundred annual average full-time equivalent students:

(a) Annual average full-time equivalent students means for grades Kindergarten through 6, the greater of sixty annual average full-time equivalent students or actual annual average full-time equivalent students; plus

(b) For grades 7 and 8, the greater of twenty annual average full-time equivalent students or actual annual average full-time equivalent students; plus

(c) For grades 9 through 12, the greater of sixty annual average full-time equivalent students or actual annual average full-time equivalent students.

NEW SECTION

WAC 392-140-164 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—BIENNIAL FULL-TIME EQUIVALENT STUDENTS. As used in WAC 392-140-160 through 392-140-174, "biennial full-time equivalent students" means the sum of the school district's annual average full-time equivalent students pursuant to WAC 392-140-163 for school year 1987-88 and school year 1988-89, divided by two.

NEW SECTION

WAC 392-140-165 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—SUPPORT LEVEL. As used in WAC 392-140-160 through 392-140-174, "support level" means:

(1) For those school districts that apply for local education program enhancement moneys during only school year 1988-89, no less than \$67.50 multiplied by the biennial full-time equivalent students determined pursuant to WAC 392-140-164.

(2) For those school districts which apply for local education program enhancement moneys in school year 1987-88 and school year 1988-89:

(a) For school year 1987-88: \$33.75 multiplied by the annual average full-time equivalent students for school year 1987-88; and

(b) For school year 1988-89: No less than \$33.75 multiplied by the annual average full-time equivalent students for school year 1988-89.

NEW SECTION

WAC 392-140-166 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—END OF YEAR REPORT. As used in WAC 392-140-160 through 392-140-174, "end of year report" means the report prepared by the school district, in the format prescribed by the superintendent of public instruction, which details local education program enhancement expenditures.

NEW SECTION

WAC 392-140-167 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—NEEDS ASSESSMENT. As used in WAC 392-140-160 through 392-140-174, "needs assessment" means an assessment which has received approval from the board of directors of the school district, identified by priority, of the educational needs of the school age residents of the school district.

NEW SECTION

WAC 392-140-168 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ELIGIBLE PROGRAMS. As used in WAC 392-140-160 through 392-140-174, "eligible programs" means all of the following:

(1) Innovative programs to increase the adult-student ratio without increasing the number of certificated staff.

(2) Dropout prevention and retrieval programs.

(3) Drug and alcohol abuse programs.

(4) Early childhood programs.

(5) Inservice training programs for staff development.

(6) Programs that develop and promote logical reasoning and improved analytical skills, including programs for highly capable students.

NEW SECTION

WAC 392-140-169 LOCAL EDUCATION PROGRAM ENHANCEMENT—CONDITIONS FOR RECEIVING MONEYS. Each school district board of directors may apply for an allocation pursuant to this section by submitting, in the format prescribed by the superintendent of public instruction, an annual statement assuring compliance with all of the following:

(1) Development of a needs assessment of the educational needs of the schools within the school district.

(2) Establishment of a priority list for addressing the identified educational needs.

(3) Development of an evaluation methodology to assess specifically how the expenditure of the grant demonstrates a direct educational benefit to the students within the school district.

(4) Completion of an end of year report of expenditure data relating to local education program enhancement activities in a format prescribed by the superintendent of public instruction.

NEW SECTION

WAC 392-140-170 LOCAL EDUCATION PROGRAM ENHANCEMENT—ALLOWABLE EXPENDITURES. School districts shall use local education program enhancement moneys solely to fund any or all of the eligible program activities defined in WAC 392-140-168.

NEW SECTION

WAC 392-140-171 LOCAL EDUCATION PROGRAM ENHANCEMENT—PAYMENT OF LOCAL EDUCATION PROGRAM ENHANCEMENT FUNDS. From local education program enhancement funds appropriated to the superintendent of public instruction, the superintendent shall make twelve monthly payments during each school year in a manner like basic education allocation funds pursuant to WAC 392-121-400 to each school district operating a program in compliance with WAC 392-140-169.

NEW SECTION

WAC 392-140-172 LOCAL EDUCATION PROGRAM ENHANCEMENT—PRORATION. The support level specified in WAC 392-140-165 shall be subject to the proration provision contained in WAC 392-122-905.

NEW SECTION

WAC 392-140-173 LOCAL EDUCATION PROGRAM ENHANCEMENT—END OF YEAR REPORT. School districts shall prepare an end of year report and submit such report to the superintendent of public instruction by November 1, of each year, in the format prescribed by the superintendent of public instruction. The end of year report shall contain all of the following:

- (1) The amount of local education program enhancement moneys expended.
- (2) A written description of the program provided, including purpose(s).
- (3) The number of students and/or staff served in one or more of the six eligible program areas specified in WAC 392-140-168.
- (4) A description of the evaluation instrument used and the educational benefits derived from the local education program enhancement program.
- (5) Such additional information as required by the superintendent of public instruction.

NEW SECTION

WAC 392-140-174 LOCAL EDUCATION PROGRAM ENHANCEMENT—CARRYOVER PROVISION. Local education program enhancement moneys for school year 1987-88 may be expended by the school district in school year 1988-89. Any local education program enhancement moneys allocated for school years 1987-88 and 1988-89 unexpended by the end of school year 1988-89, as reported pursuant to WAC 392-140-173, shall revert to the state treasurer: PROVIDED, That if prior to recovery, insufficient moneys are available to fully fund those programs operating in school year 1988-89, any moneys recovered shall first be allocated to fully fund these programs.

WSR 88-06-094**PROPOSED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning citizen complaint procedure for certain categorical federal programs, chapter 392-168 WAC;

that the agency will at 9:00 a.m., Friday, April 8, 1988, in the Bruno Conference Room, SPI, Old Capitol Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 28A.02.100.

Dated: March 2, 1988

By: Frank B. Brouillet

Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-168 WAC.

Rule Section(s): WAC 392-168-105, 392-168-110, 392-168-115, 392-168-120, 392-168-125, 392-168-130, 392-168-135, 392-168-140, 392-168-145, 392-168-150, 392-168-155, 392-168-160, 392-168-165, 392-168-170, 392-168-175 and 392-168-180.

Statutory Authority: RCW 28A.02.100.

Purpose of the Rule(s): To ensure compliance with 34 CFR 76.780-782.

Summary of the New Rule(s) and/or Amendments:
Establish citizen complaint process for certain categorical federal programs.

Reasons Which Support the Proposed Action(s): Required by federal rule.

Section Analysis: WAC 392-168-105 establishes authority; 392-168-110 defines purpose; 392-168-115 establishes applicability; 392-168-120 defines "hatch amendment"; 392-168-125 defines "complaint"; 392-168-130 defines "other subgrantee"; 392-168-135 establishes who has right to register complaint; 392-168-140 establishes content of complaint; 392-168-145 establishes procedure for filing complaint; 392-168-150 provides that complaint be directed to designated responsible employee; 392-168-155 outlines investigative and response procedures for complaints; 392-168-160 provides for appeal of local decision to Superintendent of Public Instruction; 392-168-165 establishes content of appeal notice; 392-168-170 outlines required actions by Superintendent of Public Instruction in response to appeal; 392-168-175 requires Superintendent of Public Instruction to designate responsible employees to receive complaints; 392-168-180 outlines investigation and response procedures; and 392-168-185 establishes procedure for waiver of timelines.

Person of Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Richard Michael Wilson, SPI, 3-2298; **Implementation and Enforcement:** Dr. Charles Marshall, SPI, 3-1880.

Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

**Chapter 392-168 WAC
((GRANTS MANAGEMENT—ELEMENTARY AND SECONDARY EDUCATION ACT—TITLE IV)) SPECIAL SERVICE PROGRAMS—CITIZEN COMPLAINT PROCEDURE FOR CERTAIN CATEGORICAL FEDERAL PROGRAMS**

WAC

392-168-105	Authority.
392-168-110	Purpose.
392-168-115	Applicability.
392-168-120	Definition—Hatch Amendment.
392-168-125	Definition—Complaint.
392-168-130	Definition—Other subgrantee.
392-168-135	Right to register a complaint.
392-168-140	Contents of complaint.
392-168-145	Procedure for filing a complaint.
392-168-150	Complaint directed to a school district or other subgrantee and designation of responsible employee.
392-168-155	Investigation of and response to complaints against a school district or other subgrantee.
392-168-160	Appeal to the superintendent of public instruction of a local school district or other subgrantee decision.
392-168-165	Content of appeal notice.
392-168-170	Actions by superintendent of public instruction in response to notices of appeal and notices registering complaints.
392-168-175	Complaints against the superintendent of public instruction—Designation of responsible employee(s).

- 392-168-180 Complaints against the superintendent of public instruction—Investigation of and response to complaints.
- 392-168-185 Waiver of timelines.
- 392-168-190 Appeal to the secretary of education in complaints against the superintendent of public instruction.

NEW SECTION

WAC 392-168-105 AUTHORITY. The authority for this chapter is RCW 28A.02.100 which authorizes the superintendent of public instruction to receive and administer federal funds on behalf of school districts of the state of Washington in compliance with applicable rules and regulations.

NEW SECTION

WAC 392-168-110 PURPOSE. The purpose of this chapter is to ensure compliance by the state of Washington with 34 CFR 76.780 through 782, Department of Education Regulations governing state-administered federal grant programs, and with the Hatch Amendment.

NEW SECTION

WAC 392-168-115 APPLICABILITY. This chapter shall apply to federal programs administered by the superintendent of public instruction and listed in 34 CFR 76.1(b):

- (1) Title III-A of the National Defense Education Act of 1958, Strengthening Instruction in Academic Subjects in Public Schools;
 - (2) Title IV of Public Law 96-511, Emergency Immigrant Education Program;
 - (3) Title II, Sections 201-206, 208-211, and 213 of the Education for Economic Security Act, State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning;
 - (4) Part B of the Education of the Handicapped Act, Assistance to States for Education of Handicapped Children;
 - (5) Section 619 of the Education of the Handicapped Act, Incentive Grants;
 - (6) Part A of Title I of the Vocational Education Act, State Vocational Education Program;
 - (7) Career Education Incentive Act (except Sections 10, 11, and 12) Career Education—State Allotment Program; and
 - (8) Adult Education Act (except Sections 309, 314, 317, and 318), State Adult Education Program:
- (9) PROVIDED, That pursuant to 34 CFR 76.1(c), this chapter shall not apply to programs authorized under Chapter 1 and Chapter 2 of the Education Consolidation and Improvement Act of 1981:

(a) Chapter 1—Financial Assistance to Local Educational Agencies To Meet the Special Educational Needs of Educationally Deprived Children, Grants to State Educational Agencies for Program To Meet the Special Educational Needs of Migratory Children, Grants to State Agencies for Programs to Meet the Special Education Needs of Children in Institutions for Neglected or Delinquent Children, State-operated Programs for Handicapped Children; and

(b) Chapter 2—Consolidation of Federal Programs for Elementary and Secondary Education:

(10) PROVIDED FURTHER, That any additional complaint procedure requirements of particular programs shall be applicable to those programs in addition to the basic citizen complaint procedure described in this chapter.

NEW SECTION

WAC 392-168-120 DEFINITION—HATCH AMENDMENT. As used in this chapter, the term the "Hatch Amendment" means section 439 of the General Education Provisions Act (GEPA), "Protection of Pupil Rights" which provides that:

(1) Parents or guardians of children involved in a research or experimentation project supported with federal funds shall have a right to inspect instructional materials used in connection with the project; and

(2) No student in such a project shall be required to submit to psychiatric or psychological examination, testing, or treatment which might reveal specified personal information without the consent of an adult or emancipated minor student or, for other minor students, without prior written parental consent.

NEW SECTION

WAC 392-168-125 DEFINITION—COMPLAINT. As used in this chapter, the term "complaint" means a written allegation, signed by the complainant, that the state, a local school district, an educational service district, or other subgrantee receiving federal funds has violated a federal statute or regulation or a state regulation that applies to a federal program covered under this chapter.

NEW SECTION

WAC 392-168-130 DEFINITION—OTHER SUBGRANTEE. As used in this chapter, the term "other subgrantee" means the government, nonprofit, or other legal entity to which the state as grantee awards a subgrant, and which is accountable to the state for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

NEW SECTION

WAC 392-168-135 RIGHT TO REGISTER A COMPLAINT. Any individual, entity, or organization may register a complaint: PROVIDED, That a complaint filed pursuant to the Hatch Amendment may be filed only by a student or parent or guardian of a student directly affected by the alleged violation: PROVIDED FURTHER, That if a parent or adult student has a complaint which constitutes the basis in whole or in part for initiation of a due process special education hearing pursuant to WAC 392-171-531, a citizen complaint by such person shall be held in abeyance until the hearing has been concluded.

NEW SECTION

WAC 392-168-140 CONTENTS OF COMPLAINT. A complaint filed under this chapter shall be in writing, signed by the complainant, and shall include:

- (1) A statement that the state, a local school district, an educational service district, or other subgrantee has violated one or more requirements of federal statutes or regulations or state regulations that apply to a federal program;
- (2) The facts on which the statement is based;
- (3) The name and address of the complainant; and
- (4) In the case of a complaint alleging a violation by an entity other than the state and filed directly with the superintendent of public instruction, the name and address of the allegedly offending entity.

NEW SECTION

WAC 392-168-145 PROCEDURE FOR FILING A COMPLAINT. The procedure for filing a complaint shall be as follows:

(1) A complaint alleging a violation by a local school district, an educational service district, or other subgrantee shall be filed directly with a responsible official of the local school district, an educational service district, or other subgrantee: PROVIDED, That a complaint alleging a violation by an entity other than the state may be filed directly with the superintendent of public instruction at the complainant's discretion.

(2) A complaint against a local school district, an educational service district, or other subgrantee filed directly with the superintendent of public instruction shall be referred back to the allegedly offending entity for action pursuant to this chapter.

NEW SECTION

WAC 392-168-150 COMPLAINT DIRECTED TO A SCHOOL DISTRICT, AN EDUCATIONAL SERVICE DISTRICT, OR OTHER SUBGRANTEE AND DESIGNATION OF RESPONSIBLE EMPLOYEE. The chief officer of each local school district, an educational service district, or other subgrantee shall designate at least one employee to monitor and coordinate the entity's compliance with this chapter. Such employee shall also be charged with the responsibility for investigating any complaint(s) communicated to the entity pursuant to WAC 392-168-145.

NEW SECTION

WAC 392-168-155 INVESTIGATION OF AND RESPONSE TO COMPLAINTS AGAINST A SCHOOL DISTRICT, EDUCATIONAL SERVICE DISTRICT, OR OTHER SUBGRANTEE. Investigation of and response to a complaint shall be as follows:

(1) Upon receipt of a properly filed complaint, the employee(s) designated pursuant to WAC 392-168-150 shall investigate the alleged violations.

(2) Upon completion of the investigation, the designated employee(s) shall provide the responsible official of the entity with a written report of the results of the investigation. Said officials shall respond in writing to the complainant no later than thirty calendar days after the date of receipt by the entity of such complaint.

(3) The response to the complainant shall clearly state either:

(a) That the entity denies the allegations contained in the complaint and the basis for such denial; or

(b) The reasonable corrective action deemed necessary to correct the violation: PROVIDED, That any such corrective measures shall be instituted as expeditiously as possible but in no event later than thirty calendar days following the date of the response to the complainant.

NEW SECTION

WAC 392-168-160 APPEAL TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF A LOCAL SCHOOL DISTRICT, EDUCATIONAL SERVICE DISTRICT, OR OTHER SUBGRANTEE DECISION. The complainant shall have the following right of appeal:

(1) In the event a complainant remains aggrieved with the written decision of a local school district, an educational service district, or other subgrantee, or upon failure or refusal of such entity to respond to a properly filed complaint, the complainant may, in writing, appeal the decision to the superintendent of public instruction or, in the case of a failure or refusal to respond, may register the complaint directly with the superintendent: PROVIDED, That upon the refusal of the local school district, educational service district, or other subgrantee to grant a request of the parent (or adult student) for a due process special education hearing made in conformance with WAC 392-171-531, the parent (or adult student) may register the complaint with the superintendent of public instruction.

(2) The written notice of appeal must be received by the superintendent of public instruction on or before the fifteenth day after the date the complainant received the written response of the local school district, educational service district, or other subgrantee pursuant to WAC 392-168-155; or in the case of a failure or refusal to respond to a complaint, a written notice registering the complaint must be received by the superintendent of public instruction on or before the thirty-fifth day after the citizen registered the complaint with the entity.

(3) In the case of a local school district, an educational service district, or other subgrantee's refusal to grant a request of a parent (or adult student) for a special education hearing made in conformance with WAC 392-171-531, a written notice registering the complaint must be received by the superintendent of public instruction on or before either the fifteenth day after the date the parent (or adult student) received notice of such entity's refusal to grant a hearing or on or before the fifteenth day after the expiration of the time period for rendering a final decision pursuant to a request for a hearing (i.e., forty-five days after the date of receipt of a request for a hearing), whichever occurs first.

NEW SECTION

WAC 392-168-165 CONTENT OF APPEAL NOTICE. The appeal notice shall set forth:

(1) A statement of the portion(s) of the local school district, educational service district, or other subgrantee's decision which is appealed or, in the case of a failure or refusal to respond, a statement so indicating; and

(2) The relief or remedy requested by the complainant/appellant.

NEW SECTION

WAC 392-168-170 ACTIONS BY SUPERINTENDENT OF PUBLIC INSTRUCTION IN RESPONSE TO NOTICES OF APPEAL AND NOTICES REGISTERING COMPLAINTS. The superintendent of public instruction shall respond in the following manner to appeals and direct complaints:

(1) The superintendent of public instruction shall investigate the allegation(s) contained in a written notice of appeal or a written notice registering the complaint that is deemed to be of substance and make a decision no later than fifteen calendar days after the receipt of a written appeal or no later than sixty calendar days after receipt of a complaint registered directly with the superintendent of public instruction by a citizen. Investigations carried out pursuant to this section may be performed on-site as necessary.

(2) If the investigation reveals that there is merit to the allegation(s), the superintendent of public instruction shall provide for negotiations, or technical advice and assistance, or other remedial action in an attempt to ensure compliance with this chapter and/or state and/or federal laws and regulations: PROVIDED, That any corrective measures deemed necessary shall be instituted no later than ten calendar days following the decision of the superintendent of public instruction.

(3) If compliance by a local school district, educational service district, or other subgrantee is not achieved pursuant to subsection (2) of this section, the superintendent of public instruction shall initiate funding withholding, fund recovery, or any other sanction deemed appropriate.

(4) In the event a complainant, local school district, educational service district, or other subgrantee remains aggrieved with the decision of the superintendent of public instruction, either party may appeal the decision to the secretary, department of education.

NEW SECTION

WAC 392-168-175 COMPLAINTS AGAINST THE SUPERINTENDENT OF PUBLIC INSTRUCTION—DESIGNATION OF RESPONSIBLE EMPLOYEE(S). (1) A complaint alleging a violation by the superintendent of public instruction shall be filed directly with the superintendent of public instruction in the form specified in WAC 392-168-140.

(2) The superintendent of public instruction shall designate at least one office of the agency to monitor and coordinate the agency's compliance with this chapter, which shall include ensuring that investigation of any complaint is conducted expeditiously and thoroughly.

NEW SECTION

WAC 392-168-180 COMPLAINTS AGAINST THE SUPERINTENDENT OF PUBLIC INSTRUCTION—INVESTIGATION OF AND RESPONSE TO COMPLAINTS. (1) The staff responsible for investigating the alleged violation shall commence investigation within ten days of receipt of the complaint by the superintendent of public instruction.

(2) Investigation by the superintendent of public instruction may include on-site investigations as appropriate.

(3) Upon completion of the investigation, investigating staff shall provide the superintendent of public instruction with a written report on the results of the investigation.

(4) The superintendent of public instruction shall respond in writing to the complainant as expeditiously as possible but in no event later than sixty calendar days after the date of receipt of such complaint by the superintendent of public instruction.

(5) The response shall clearly state either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation: PROVIDED, That any such corrective measures deemed necessary shall be instituted as expeditiously as possible but in no event later than thirty calendar days following the date of the response to the complainant.

NEW SECTION

WAC 392-168-185 WAIVER OF TIMELINES. (1) Timelines established in this chapter may be waived by mutual consent in writing of both complainant and local school district or other subgrantee. Such waiver of timelines shall be communicated within ten days to the appropriate division, superintendent of public instruction, by the entity named in the complaint.

(2) An extension of time limits applicable to actions by the superintendent of public instruction shall be waived by mutual consent of the

complainant and the superintendent of public instruction: PROVIDED, That if exceptional circumstances exist with respect to a particular complaint, the superintendent of public instruction may unilaterally extend the timelines for cause upon written notice to the parties.

NEW SECTION

WAC 392-168-190 APPEAL TO THE SECRETARY OF EDUCATION IN COMPLAINTS AGAINST THE SUPERINTENDENT OF PUBLIC INSTRUCTION. In the event that a complainant remains aggrieved with the response of the superintendent of public instruction, the complainant may file an appeal directly with the secretary, department of education.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-168-005 AUTHORITY.

WSR 88-06-095

PROPOSED RULES

PARKS AND RECREATION COMMISSION

[Filed March 2, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Parks and Recreation Commission intends to adopt, amend, or repeal rules concerning:

Amd WAC 352-36-040 Restricted areas.

New WAC 352-32-15001 Little Spokane River Natural Area;

that the agency will at 9 a.m., Friday, April 22, 1988, in the VFW Building, Walla Walla, Washington 98362, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.51.040, 43.51.060 and 43.51.650 - [43.51.]685.

The specific statute these rules are intended to implement is RCW 43.51.040, 43.51.060 and 43.51.650 - [43.51.]685.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 19, 1988.

Dated: March 2, 1988
By: Mike Reed
Executive Assistant

STATEMENT OF PURPOSE

Title: WAC 352-36-040 Restricted areas; and 352-32-15001 Little Spokane River Natural Area.

Description of Purpose: Limit driving on specified portion of Seashore Conservation Area; and establish public use rules for Little Spokane River Natural Area.

Statutory Authority: RCW 43.51.040, 43.51.060 and 43.51.650 - [43.51.]685.

Summary of Rule: Prohibits driving on a specified stretch of the ocean beach in front of Long Beach; and prohibits certain activities in Little Spokane River Natural Area such as motor boat use, motorcycles, etc.

Reasons Supporting Proposed Action: Provides for safe pedestrian recreational use; and need to establish public use rules consistent with natural area designation.

Agency Personnel Responsible for Drafting: Mike Reed, Executive Assistant, 7150 Cleanwater Lane, Olympia, WA 98504, (206) 753-5179; Implementation and Enforcement: Lynn Genasci, Assistant Director, Operations, 7150 Cleanwater Lane, Olympia, WA 98504, (206) 753-5761.

Proposing: Washington State Parks and Recreation Commission.

Agency Comments: [No information supplied by agency.]

Federal Law/Court Action: [No information supplied by agency.]

NEW SECTION

WAC 352-32-15001 LITTLE SPOKANE RIVER NATURAL AREA—PROHIBITED USES. (1) The Little Spokane River Natural Area was established by the commission to conserve a unique natural environment in a nearly undeveloped state for passive low density outdoor recreation activities. To conserve the natural resources, scenic beauty and tranquility of the area, the following are prohibited within the Little Spokane River Natural Area:

- (a) Bicycles.
 - (b) Camping.
 - (c) Commercial development or activities.
 - (d) Consumption of alcoholic beverages.
 - (e) Fires or fireworks.
 - (f) Horseback riding off trails designated for equestrian use.
 - (g) Hunting.
 - (h) Motorized boats, jet skis, or boats propelled by means other than oars or paddles; use of canoes, rowboats, kayaks and rafts is specifically authorized.
 - (i) Pets including all dogs except guide dogs.
 - (j) Swimming, or use of inner tubes, air mattresses or similar floatation devices.
 - (k) Travel by foot, skis or snowshoes off designated trails or outside designated corridors.
- (2) This section does not apply to commission employees in the performance of search and rescue, medical emergency response, law enforcement or fire fighting activities. It also does not apply in cases where the director or designee specifically authorizes activities in writing associated with the operational or administrative needs of the agency or state.

AMENDATORY SECTION (Amending Order 28, filed 11/19/76)

WAC 352-36-040 RESTRICTED AREAS. (1) Vehicular traffic shall be allowed on the ocean beaches twenty-four hours a day except as further restricted within this WAC.

(2) Pedestrians only will be allowed during closed clam seasons on the following beaches:

- (a) On Long Beach, from the south boundary of Leadbetter Point State Park to the north boundary of Leadbetter Point State Park—Natural Area.
- (b) On North Beach, Benner Gap north to the Copalis River.
- (3) Vehicular traffic shall be prohibited on the ocean beach located between the 10th Street South Beach Approach and Bolstad Beach Approach in front of the city of Long Beach from June 1 through Labor Day of each year, except for vehicles operated in the performance of official duties or vehicles responding to an emergency.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

AMD = Amendment of existing section
NEW = New section not previously codified
OBJEC = Notice of objection by Joint Administrative Rules Review Committee
RE-AD = Readoption of existing section
REP = Repeal of existing section
REAFF = Order assuming and reaffirming rules
REMOV = Removal of rule pursuant to RCW 34.04.050(5)
RESCIND = Rescind previous emergency rule
REVIEW = Review of previously adopted rule
STMT = Statement regarding previously adopted rule

Suffixes:

-P = Proposed action
-C = Continuance of previous proposal
-E = Emergency action
-W = Withdrawal of proposed action
 No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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180-115-095	NEW-E 88-05-046	220-56-175	AMD 88-05-002	232-28-710	NEW 88-06-006
180-115-095	NEW-P 88-05-052	220-56-17500A	NEW-E 88-02-048	232-28-711	NEW-P 88-05-065
180-115-100	NEW-E 88-05-046	220-56-180	AMD-P 88-03-075	232-28-809	REP-P 88-06-065
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180-115-105	NEW-P 88-05-052	220-56-199	AMD-P 88-03-075	248-19-373	AMD 88-04-047
192-16-061	NEW 88-05-034	220-56-205	AMD-P 88-03-075	248-54-005	AMD 88-05-057
196-04-025	NEW-E 88-05-064	220-56-235	AMD-P 88-03-075	248-54-015	AMD 88-05-057
196-04-030	AMD-E 88-05-064	220-56-240	AMD-P 88-03-076	248-54-025	AMD 88-05-057
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196-20-010	AMD-E 88-05-064	220-56-25500B	NEW-E 88-06-050	248-54-065	AMD 88-05-057
204-08-020	AMD 88-03-031	220-56-265	AMD-P 88-03-075	248-54-085	REP 88-05-057
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217-17-352	NEW-P 88-03-014	220-57A-180	AMD-P 88-03-075	248-63-001	AMD-P 88-06-092
217-17-362	NEW-P 88-03-014	220-69-238	NEW-E 88-02-048	248-63-010	AMD-P 88-06-092
220-16-085	AMD-P 88-03-076	220-69-238	NEW 88-05-002	248-63-020	REP-P 88-06-092
220-20-010	AMD-P 88-03-075	220-69-245	AMD 88-05-002	248-63-025	NEW-P 88-06-092
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248-63-050	REP-P 88-06-092	250-65-020	NEW 88-03-008	296-17-349	NEW 88-06-048
248-63-055	NEW-P 88-06-092	250-65-030	NEW 88-03-008	296-17-350	AMD-C 88-06-046
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248-63-125	NEW-P 88-06-092	251-01-450	REP-P 88-02-072	296-17-55201	NEW 88-06-047
248-63-130	REP-P 88-06-092	251-01-455	REP-P 88-02-072	296-17-563	AMD-P 88-06-072
248-63-135	NEW-P 88-06-092	251-01-455	REP-P 88-06-075	296-17-56402	NEW-P 88-06-072
248-63-140	REP-P 88-06-092	251-10-170	AMD-P 88-02-072	296-17-567	AMD-P 88-06-072
248-63-145	NEW-P 88-06-092	251-10-170	AMD-C 88-06-062	296-17-580	AMD-P 88-06-072
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248-63-180	REP-P 88-06-092	251-14-020	AMD-P 88-02-072	296-17-64901	AMD-P 88-06-072
248-100-011	AMD-P 88-03-022	251-14-020	AMD-C 88-06-062	296-17-64902	AMD-P 88-06-072
248-100-025	REP-P 88-03-022	251-14-020	AMD-P 88-06-075	296-17-677	AMD-P 88-06-072
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250-60-040	AMD-P 88-06-091	284-91-027	NEW-P 88-04-056	296-23-620	REP-C 88-04-051
250-60-050	AMD-P 88-06-091	296-14-900	NEW-P 88-04-050	296-23-620	REP-C 88-06-036
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250-60-070	AMD-P 88-06-091	296-14-920	NEW-P 88-04-050	296-24-590	REP-P 88-06-073
250-60-080	AMD-P 88-06-091	296-14-930	NEW-P 88-04-050	296-24-605	REP-P 88-06-073
250-60-090	AMD-P 88-06-091	296-14-940	NEW-P 88-04-050	296-24-68203	AMD-P 88-06-073
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296-62-07336	NEW-P	88-06-073	308-53-120	AMD-P	88-03-071
296-62-07337	NEW-P	88-06-073	308-53-145	AMD-P	88-03-071
296-62-07338	NEW-P	88-06-073	308-53-170	AMD-P	88-03-071
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296-116-370	NEW-P	88-06-069	308-61-330	AMD-E	88-04-026
296-116-400	NEW-C	88-05-020	308-61-330	AMD	88-06-025
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296-116-420	NEW-P	88-06-070	308-61-430	AMD	88-06-025
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296-155-426	NEW-P	88-06-073	308-72-504	NEW-P	88-04-029
296-155-428	NEW-P	88-06-073	308-72-506	NEW-P	88-04-029
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296-155-437	NEW-P	88-06-073	308-90-020	REP-E	88-03-001
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296-155-441	NEW-P	88-06-073	308-90-030	AMD-E	88-03-001
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296-155-450	REP-P	88-06-073	308-90-050	REP-E	88-03-001
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296-155-455	REP-P	88-06-073	308-90-060	AMD-E	88-03-001
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308-51-125	AMD-P	88-06-034	308-91-020	REP-E	88-03-030
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308-52-138	AMD	88-06-008	308-91-030	AMD-P	88-03-067
308-52-139	AMD	88-06-008	308-91-030	AMD	88-06-061
308-52-140	AMD	88-06-008	308-91-040	AMD-E	88-03-030
308-52-147	NEW	88-06-008	308-91-040	AMD-P	88-03-067
308-52-148	NEW	88-06-008	308-91-040	AMD	88-06-061
308-52-149	NEW	88-06-008	308-91-050	AMD-E	88-03-030

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308-171-020	AMD-P 88-05-061	315-20-090	AMD-P 88-02-062	356-30-145	AMD-P 88-04-068
308-180-120	AMD-P 88-02-061	315-20-090	AMD 88-06-031	356-30-260	AMD-C 88-03-039
308-180-210	AMD-P 88-02-061	315-30-080	AMD-P 88-02-062	356-30-260	AMD 88-06-001
308-180-220	AMD-P 88-02-061	315-32-050	AMD-P 88-02-066	356-30-305	AMD-C 88-03-039
308-180-250	AMD-P 88-02-061	315-32-050	AMD 88-05-030	356-30-305	AMD 88-06-001
308-180-270	NEW-P 88-02-061	316-02-350	AMD-P 88-06-057	356-30-330	AMD-P 88-04-068
308-180-280	NEW-P 88-02-061	316-02-820	AMD-P 88-06-057	356-34-010	AMD-P 88-04-067
308-190-030	NEW-P 88-05-059	316-45-110	AMD-P 88-06-057	356-34-020	AMD 88-03-043
308-190-040	NEW-P 88-05-059	316-45-550	AMD-P 88-06-057	356-34-030	AMD 88-03-043
308-190-050	NEW-P 88-05-059	320-16-020	NEW 88-04-080	356-34-040	AMD 88-03-043
308-195-020	NEW-P 88-03-034	326-20-090	REP-E 88-06-029	356-34-045	NEW 88-03-043
308-195-030	NEW-P 88-03-034	326-20-090	REP 88-06-030	356-34-050	AMD 88-03-043
308-195-040	NEW-P 88-03-034	326-20-091	NEW-E 88-06-043	356-46-125	NEW 88-03-042
308-195-050	NEW-P 88-03-034	326-20-091	NEW-P 88-06-074	356-47-030	AMD-P 88-04-068
308-195-060	NEW-P 88-03-034	326-20-092	NEW-E 88-06-043	356-47-045	AMD-P 88-04-068
308-195-070	NEW-P 88-03-034	326-20-092	NEW-P 88-06-074	360-08-005	NEW-P 88-03-036
308-195-080	NEW-P 88-03-034	326-20-093	NEW-E 88-06-043	360-08-006	NEW 88-06-026
308-195-090	NEW-P 88-03-034	326-20-093	NEW-P 88-06-074	360-08-030	REP-P 88-03-036
308-195-100	NEW-P 88-03-034	326-20-094	NEW-E 88-06-043	360-08-030	REP 88-06-026
308-195-110	NEW-P 88-03-034	326-20-094	NEW-P 88-06-074	360-08-070	REP-P 88-03-036
308-210-010	NEW-P 88-05-060	326-20-095	NEW-E 88-06-043	360-08-070	REP 88-06-026
308-210-020	NEW-P 88-05-060	326-20-095	NEW-P 88-06-074	360-08-080	REP-P 88-03-036
308-210-030	NEW-P 88-05-060	326-20-096	NEW-E 88-06-043	360-08-080	REP 88-06-026
308-210-040	NEW-P 88-05-060	326-20-096	NEW-P 88-06-074	360-08-090	REP-P 88-03-036
308-210-050	NEW-P 88-05-060	326-20-097	NEW-E 88-06-043	360-08-090	REP 88-06-026
308-210-060	NEW-P 88-05-060	326-20-097	NEW-P 88-06-074	360-08-100	REP-P 88-03-036
308-220-010	NEW-P 88-05-062	326-20-098	NEW-E 88-06-043	360-08-100	REP 88-06-026
308-220-020	NEW-P 88-05-062	326-20-098	NEW-P 88-06-074	360-08-110	REP-P 88-03-036
308-220-030	NEW-P 88-05-062	326-20-171	AMD-P 88-06-074	360-08-110	REP 88-06-026
308-220-040	NEW-P 88-05-062	326-20-172	AMD-P 88-06-074	360-08-120	REP-P 88-03-036
308-220-050	NEW-P 88-05-062	326-20-180	AMD-P 88-06-074	360-08-120	REP 88-06-026
308-220-070	NEW-P 88-05-062	326-20-185	AMD-P 88-06-074	360-08-130	REP-P 88-03-036
308-220-080	NEW-P 88-05-062	352-12-010	AMD-P 88-04-075	360-08-130	REP 88-06-026
308-230-010	NEW-P 88-05-063	352-12-020	AMD-P 88-04-075	360-08-140	REP-P 88-03-036
308-230-020	NEW-P 88-05-063	352-32-035	AMD-P 88-04-075	360-08-140	REP 88-06-026
308-230-030	NEW-P 88-05-063	352-32-045	AMD-P 88-04-075	360-08-410	REP-P 88-03-036
308-230-040	NEW-P 88-05-063	352-32-15001	NEW-P 88-06-095	360-08-410	REP 88-06-026
308-230-050	NEW-P 88-05-063	352-32-250	AMD-P 88-04-075	360-08-430	REP-P 88-03-036
308-410-010	NEW 88-03-037	352-36-040	AMD-P 88-06-095	360-08-430	REP 88-06-026
308-410-020	NEW 88-03-037	352-74-030	AMD-P 88-04-075	360-08-440	REP-P 88-03-036
308-410-030	NEW 88-03-037	352-74-040	AMD-P 88-04-075	360-08-440	REP 88-06-026
308-410-040	NEW 88-03-037	352-74-060	AMD-P 88-04-075	360-08-450	REP-P 88-03-036
308-410-050	NEW 88-03-037	352-74-070	AMD-P 88-04-075	360-08-450	REP 88-06-026
308-410-060	NEW 88-03-037	356-05-005	REP-P 88-04-066	360-08-460	REP-P 88-03-036
308-410-070	NEW 88-03-037	356-05-123	NEW 88-03-040	360-08-460	REP 88-06-026
314-08-080	AMD-P 88-06-056	356-05-123	NEW-C 88-06-014	360-08-470	REP-P 88-03-036
314-12-037	NEW-P 88-05-012	356-05-128	NEW 88-03-042	360-08-470	REP 88-06-026
314-12-038	NEW-P 88-06-054	356-05-145	REP-P 88-04-066	360-08-480	REP-P 88-03-036
314-12-100	AMD 88-04-028	356-05-311	NEW-P 88-04-032	360-08-480	REP 88-06-026
314-16-190	AMD-P 88-04-082	356-05-320	AMD-P 88-04-068	360-08-490	REP-P 88-03-036
314-22-010	NEW-P 88-05-007	356-05-330	REP-P 88-04-066	360-08-490	REP 88-06-026
314-36-010	AMD-P 88-04-087	356-05-360	AMD 88-03-041	360-08-500	REP-P 88-03-036
314-36-020	AMD-P 88-04-087	356-05-415	AMD-P 88-04-068	360-08-500	REP 88-06-026
314-36-030	AMD-P 88-04-087	356-15-020	AMD 88-05-028	360-08-510	REP-P 88-03-036
314-36-040	AMD-P 88-04-087	356-15-085	AMD-P 88-04-035	360-08-510	REP 88-06-026
314-36-050	AMD-P 88-04-087	356-15-100	AMD-P 88-04-033	360-10-010	AMD 88-06-060
314-36-060	AMD-P 88-04-087	356-15-110	AMD-P 88-04-033	360-10-050	AMD 88-06-060
314-36-070	AMD-P 88-04-087	356-15-115	NEW-P 88-04-033	360-10-060	AMD 88-06-060
314-36-080	AMD-P 88-04-087	356-18-030	AMD-P 88-06-022	360-18-020	AMD-P 88-03-066
314-36-090	AMD-P 88-04-087	356-18-114	NEW-P 88-04-032	360-18-025	NEW-P 88-03-066
314-36-100	AMD-P 88-04-087	356-18-120	AMD-P 88-04-034	360-36-425	NEW 88-06-060
314-36-110	AMD-P 88-04-087	356-18-130	REP-E 88-04-030	360-60-010	NEW-P 88-03-036
314-36-120	REP-P 88-04-087	356-18-130	REP-P 88-04-065	360-60-010	NEW 88-06-026
314-36-130	AMD-P 88-04-087	356-18-190	AMD-P 88-04-068	360-60-020	NEW-P 88-03-036
314-40-040	AMD-P 88-04-083	356-26-050	AMD-P 88-04-068	360-60-020	NEW 88-06-026
314-40-080	AMD-P 88-06-055	356-26-060	AMD-P 88-04-031	360-60-030	NEW-P 88-03-036
314-52-114	AMD-P 88-04-060	356-26-080	AMD-P 88-04-068	360-60-030	NEW 88-06-026
314-52-114	AMD-E 88-04-061	356-30-015	AMD-P 88-04-068	360-60-040	NEW-P 88-03-036
315-11-310	NEW-P 88-02-062	356-30-020	REP-P 88-04-066	360-60-040	NEW 88-06-026
315-11-310	NEW 88-06-031	356-30-030	REP-P 88-04-066	365-180-010	NEW 88-02-042
315-11-311	NEW-P 88-02-062	356-30-040	REP-P 88-04-066	365-180-020	NEW 88-02-042
315-11-311	NEW 88-06-031	356-30-050	REP-P 88-04-066	365-180-030	NEW 88-02-042
315-11-312	NEW-P 88-02-062	356-30-065	AMD-P 88-04-068	365-180-040	NEW 88-02-042
315-11-312	NEW 88-06-031	356-30-067	NEW-P 88-04-068	365-180-050	NEW 88-02-042
315-11-320	NEW-P 88-06-049	356-30-070	REP-P 88-04-066	365-180-060	NEW 88-02-042
315-11-321	NEW-P 88-06-049	356-30-080	REP-P 88-04-066	365-180-070	NEW 88-02-042

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388-14-010	AMD-E	88-02-056	388-29-146	REP	88-04-019
388-14-020	AMD-P	88-02-055	388-29-280	AMD	88-04-019
388-14-020	AMD-E	88-02-056	388-38-110	AMD-P	88-04-038
388-14-030	AMD-P	88-02-055	388-49-020	AMD-P	88-06-079
388-14-030	AMD-E	88-02-056	388-49-410	AMD-P	88-06-080
388-14-200	AMD-P	88-02-055	388-49-470	AMD-P	88-05-005
388-14-200	AMD-E	88-02-056	388-49-470	AMD-E	88-05-006
388-14-205	AMD-P	88-02-055	388-49-470	AMD-P	88-06-081
388-14-205	AMD-E	88-02-056	388-49-500	AMD-P	88-06-082
388-14-210	AMD-P	88-02-055	388-49-505	NEW	88-04-042
388-14-210	AMD-E	88-02-056	388-49-640	AMD-P	88-04-088
388-14-220	AMD-P	88-02-055	388-49-660	AMD-P	88-04-046
388-14-220	AMD-E	88-02-056	388-77-005	NEW-P	88-04-089
388-14-270	AMD-P	88-02-055	388-77-010	NEW-P	88-04-089
388-14-270	AMD-E	88-02-056	388-77-015	NEW-P	88-04-089
388-14-302	AMD-P	88-02-055	388-77-020	NEW-P	88-04-089
388-14-302	AMD-E	88-02-056	388-77-025	NEW-P	88-04-089
388-14-305	AMD-P	88-02-055	388-77-030	NEW-P	88-04-089
388-14-305	AMD-E	88-02-056	388-77-035	NEW-P	88-04-089
388-14-310	AMD-P	88-02-055	388-77-040	NEW-P	88-04-089
388-14-310	AMD-E	88-02-056	388-77-045	NEW-P	88-04-089
388-14-320	REP-P	88-02-055	388-77-055	NEW-P	88-04-089
388-14-320	REP-E	88-02-056	388-77-065	NEW-P	88-04-089
388-14-325	REP-P	88-02-055	388-77-200	NEW-P	88-04-089
388-14-325	REP-E	88-02-056	388-77-210	NEW-P	88-04-089
388-14-370	AMD-P	88-02-055	388-77-215	NEW-P	88-04-089
388-14-370	AMD-E	88-02-056	388-77-240	NEW-P	88-04-089
388-14-385	AMD-P	88-02-055	388-77-245	NEW-P	88-04-089
388-14-385	AMD-E	88-02-056	388-77-255	NEW-P	88-04-089
388-14-405	AMD-P	88-02-055	388-77-270	NEW-P	88-04-089
388-14-405	AMD-E	88-02-056	388-77-275	NEW-P	88-04-089
388-14-415	AMD-P	88-02-055	388-77-280	NEW-P	88-04-089
388-14-415	AMD-E	88-02-056	388-77-285	NEW-P	88-04-089
388-14-420	NEW-P	88-02-055	388-77-310	NEW-P	88-04-089
388-14-420	NEW-E	88-02-056	388-77-320	NEW-P	88-04-089
388-14-425	NEW-P	88-02-055	388-77-330	NEW-P	88-04-089
388-14-425	NEW-E	88-02-056	388-77-335	NEW-P	88-04-089
388-14-430	NEW-P	88-02-055	388-77-340	NEW-P	88-04-089
388-14-430	NEW-E	88-02-056	388-77-350	NEW-P	88-04-089
388-15-207	AMD-P	88-02-065	388-77-355	NEW-P	88-04-089
388-15-207	AMD	88-06-088	388-77-360	NEW-P	88-04-089
388-15-208	AMD-P	88-02-065	388-77-365	NEW-P	88-04-089
388-15-208	AMD	88-06-088	388-77-370	NEW-P	88-04-089
388-15-209	AMD-P	88-02-065	388-77-375	NEW-P	88-04-089
388-15-209	AMD	88-06-088	388-77-500	NEW-P	88-04-089
388-15-212	AMD-P	88-02-065	388-77-505	NEW-P	88-04-089
388-15-212	AMD	88-06-088	388-77-510	NEW-P	88-04-089
388-15-213	AMD-P	88-02-065	388-77-515	NEW-P	88-04-089
388-15-213	AMD	88-06-088	388-77-520	NEW-P	88-04-089
388-15-214	NEW-P	88-02-065	388-77-525	NEW-P	88-04-089
388-15-214	NEW	88-06-088	388-77-530	NEW-P	88-04-089
388-15-215	AMD-P	88-02-065	388-77-545	NEW-P	88-04-089
388-15-217	AMD-P	88-02-065	388-77-550	NEW-P	88-04-089
388-15-690	NEW	88-03-020	388-77-555	NEW-P	88-04-089
388-15-695	NEW	88-03-020	388-77-560	NEW-P	88-04-089
388-15-700	NEW	88-03-020	388-77-600	NEW-P	88-04-089
388-15-705	NEW	88-03-020	388-77-605	NEW-P	88-04-089
388-15-710	NEW	88-03-020	388-77-610	NEW-P	88-04-089
388-15-715	NEW	88-03-020	388-77-615	NEW-P	88-04-089
388-24-040	AMD-P	88-04-036	388-77-640	NEW-P	88-04-089
388-24-040	AMD-E	88-04-039	388-77-700	NEW-P	88-04-089
388-24-050	AMD-P	88-04-036	388-77-710	NEW-P	88-04-089
388-24-050	AMD-E	88-04-039	388-77-720	NEW-P	88-04-089
388-24-074	AMD	88-06-084	388-77-725	NEW-P	88-04-089
388-24-090	AMD	88-06-084	388-77-730	NEW-P	88-04-089
388-24-107	AMD	88-06-084	388-77-735	NEW-P	88-04-089
388-24-125	AMD-P	88-04-036	388-77-737	NEW-P	88-04-089
388-24-125	AMD-E	88-04-039	388-77-740	NEW-P	88-04-089
388-28-435	AMD	88-05-013	388-77-745	NEW-P	88-04-089
388-28-440	AMD-P	88-04-045	388-77-750	NEW-P	88-04-089
388-28-475	AMD-P	88-04-045	388-77-755	NEW-P	88-04-089
388-28-560	AMD	88-04-018	388-77-760	NEW-P	88-04-089
388-29-100	AMD	88-04-019	388-77-765	NEW-P	88-04-089
388-29-125	AMD	88-04-019	388-77-770	NEW-P	88-04-089

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392-121-031	NEW	88-03-013	392-127-003	NEW	88-03-004
392-121-033	NEW	88-03-013	392-130-005	NEW	88-04-001
392-121-101	REP	88-03-013	392-130-010	NEW	88-04-001
392-121-103	REP	88-03-013	392-130-015	NEW	88-04-001
392-121-105	REP	88-03-013	392-130-020	NEW	88-04-001
392-121-106	NEW	88-03-013	392-130-025	NEW	88-04-001
392-121-107	NEW	88-03-013	392-130-030	NEW	88-04-001
392-121-108	NEW	88-03-013	392-130-035	NEW	88-04-001
392-121-110	REP	88-03-013	392-130-040	NEW	88-04-001
392-121-111	NEW	88-03-013	392-130-045	NEW	88-04-001
392-121-115	REP	88-03-013	392-130-050	NEW	88-04-001
392-121-120	REP	88-03-013	392-130-055	NEW	88-04-001
392-121-121	REP	88-03-013	392-130-060	NEW	88-04-001
392-121-122	NEW	88-03-013	392-130-065	NEW	88-04-001
392-121-123	NEW	88-03-013	392-130-070	NEW	88-04-001
392-121-125	REP	88-03-013	392-130-075	NEW	88-04-001
392-121-126	REP	88-03-013	392-130-080	NEW	88-04-001
392-121-127	REP	88-03-013	392-130-085	NEW	88-04-001
392-121-128	REP	88-03-013	392-130-090	NEW	88-04-001
392-121-129	REP	88-03-013	392-130-095	NEW	88-04-001
392-121-130	REP	88-03-013	392-130-100	NEW	88-04-001
392-121-131	REP	88-03-013	392-130-105	NEW	88-04-001
392-121-133	NEW	88-03-013	392-130-110	NEW	88-04-001
392-121-135	REP	88-03-013	392-130-115	NEW	88-04-001
392-121-136	NEW	88-03-013	392-130-120	NEW	88-04-001
392-121-140	REP	88-03-013	392-130-125	NEW	88-04-001
392-121-145	REP	88-03-013	392-130-130	NEW	88-04-001
392-121-150	REP	88-03-013	392-130-135	NEW	88-04-001
392-121-155	REP	88-03-013	392-130-140	NEW	88-04-001
392-121-160	REP	88-03-013	392-130-145	NEW	88-04-001
392-121-161	NEW	88-03-013	392-130-150	NEW	88-04-001
392-121-165	REP	88-03-013	392-130-155	NEW	88-04-001
392-121-170	REP	88-03-013	392-130-160	NEW	88-04-001
392-121-175	REP	88-03-013	392-130-165	NEW	88-04-001
392-121-176	REP	88-03-013	392-130-170	NEW	88-04-001
392-121-177	REP	88-03-013	392-130-175	NEW	88-04-001
392-121-180	REP	88-03-013	392-130-180	NEW	88-04-001
392-121-181	NEW	88-03-013	392-130-185	NEW	88-04-001
392-121-182	NEW	88-03-013	392-130-190	NEW	88-04-001
392-121-183	NEW	88-03-013	392-130-195	NEW	88-04-001
392-121-185	REP	88-03-013	392-130-200	NEW	88-04-001
392-121-186	REP	88-03-013	392-130-205	NEW	88-04-001
392-121-190	REP	88-03-013	392-139-001	AMD	88-03-007
392-121-195	REP	88-03-013	392-139-005	AMD	88-03-007
392-121-200	NEW	88-03-013	392-139-007	NEW	88-03-007
392-121-205	NEW	88-03-013	392-139-010	REP	88-03-007
392-121-210	NEW	88-03-013	392-139-016	REP	88-03-007
392-121-215	NEW	88-03-013	392-139-017	REP	88-03-007
392-121-220	NEW	88-03-013	392-139-018	REP	88-03-007
392-121-225	NEW	88-03-013	392-139-021	REP	88-03-007
392-121-245	NEW	88-03-013	392-139-022	REP	88-03-007
392-121-250	NEW	88-03-013	392-139-026	REP	88-03-007
392-121-255	NEW	88-03-013	392-139-031	REP	88-03-007
392-121-257	NEW	88-03-013	392-139-036	REP	88-03-007
392-121-260	NEW	88-03-013	392-139-037	REP	88-03-007
392-121-265	NEW	88-03-013	392-139-038	REP	88-03-007
392-121-267	NEW	88-03-013	392-139-050	NEW	88-03-007
392-121-268	NEW	88-03-013	392-139-051	NEW	88-03-007
392-121-270	NEW	88-03-013	392-139-052	NEW	88-03-007
392-121-272	NEW	88-03-013	392-139-055	NEW	88-03-007
392-121-280	NEW	88-03-013	392-139-056	NEW	88-03-007
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